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2 UNITED STATES BANKRUPTCY COURT  
3 SOUTHERN DISTRICT OF NEW YORK

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5 In Re:

6 Chapter 11

7 LEHMAN BROTHERS

Case No. 08-13555(JMP)

8 HOLDINGS, INC., et al., (Jointly Administered)

9 Debtors.  
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14 CONTINUED VIDEOTAPED DEPOSITION OF JAMES SEERY

15 New York, New York

16 March 3, 2010  
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23 Reported by:

24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR

25 JOB NO. 28549

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<p>1 2 March 3, 2010 3 4 Continued videotaped deposition of 5 JAMES SEERY, held at the law offices of 6 Quinn, Emanuel, Urquhart, Oliver &amp; Hedges, 7 LLP, 51 Madison Avenue, New York, New York, 8 before Kathy S. Klepfer, a Registered 9 Professional Reporter, Registered Merit 10 Reporter, Certified Realtime Reporter, 11 Certified Livenote Reporter, and Notary 12 Public of the State of New York. 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 2 A P P E A R A N C E S: 3 4 JONES DAY, LLP 5 Attorneys for Lehman Brothers, Inc. 6 222 East 41st Street 7 New York, New York 10017-6702 8 BY: JENNIFER DEL MEDICO, ESQ. 9 10 BOIES, SCHILLER &amp; FLEXNER, LLP 11 Attorneys for Barclays Capital 12 575 Lexington Avenue - 7th Floor 13 New York, New York 10022 14 BY: JACK G. STERN, ESQ. 15 16 QUINN, EMANUEL, URQUHART, OLIVER &amp; HEDGES, LLP 17 Attorneys for the Creditors Committee 18 865 Figueroa Street, 10th Floor 19 Los Angeles, California 90017 20 BY: ERICA P. TAGGART, ESQ. 21 TYLER WHITMER, ESQ. 22 23 24 25</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 2 3 A P P E A R A N C E S: (Cont'd.) 4 5 HUGHES, HUBBARD &amp; REED, LLP 6 Attorneys for the SIPA Trustee 7 One Battery Park Plaza 8 New York, New York 10004-1482 9 BY: CARL W. MILLS, ESQ. 10 11 12 13 14 ALSO PRESENT: 15 MATTHEW SMITH, Legal Video Specialist 16 17 18 19 20 21 22 23 24 25</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery 2 THE VIDEOGRAPHER: This begins tape 3 labeled number 1 of the continued -- I'm 4 sorry, of the videotaped deposition of James 5 Seery in the matter of In re: Lehman 6 Brothers Holdings, Incorporated, et al., 7 United States Bankruptcy Court, Southern 8 District of New York, Case No. 08-13555. 9 This deposition is being held at 51 10 Madison Avenue, 22nd floor, in New York, New 11 York, on March 3, 2010 at approximately 8:50 12 A.M. My name is Matthew Smith from TSG 13 Reporting, Incorporated and I am the legal 14 video specialist. The court reporter is 15 Kathy Klepfer, in association with TSG 16 Reporting. 17 Will counsel please introduce yourself 18 for the record. 19 MS. TAGGART: Erica Taggart with 20 Quinn, Emanuel, Urquhart, Oliver &amp; Hedges 21 for the Committee, and I'm here with Tyler 22 Whitmer. 23 MS. DEL MEDICO: Jennifer Del Medico 24 from Jones days for the Debtors, LBHI. 25 MR. MILLS: Carl Mills from Hughes</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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<p>1 J. Seery</p> <p>2 Hubbard &amp; Reed on behalf of the SIPA</p> <p>3 Trustee.</p> <p>4 MR. STERN: Jack Stern, Boies,</p> <p>5 Schiller &amp; Flexner, for Barclays Capital.</p> <p>6 THE VIDEOGRAPHER: And will the court</p> <p>7 reporter please swear in the witness.</p> <p>8 * * *</p> <p>9 JAMES SEERY, called as a</p> <p>10 witness, having been duly sworn by a Notary</p> <p>11 Public, was examined and testified as</p> <p>12 follows:</p> <p>13 EXAMINATION BY</p> <p>14 MS. TAGGART:</p> <p>15 Q. Good morning, Mr. Seery.</p> <p>16 A. Good morning.</p> <p>17 Q. Are you still working with Sidley?</p> <p>18 A. I am.</p> <p>19 Q. Has your work position changed at all</p> <p>20 since your deposition last time?</p> <p>21 A. No.</p> <p>22 Q. Have you done any work for Barclays</p> <p>23 since your deposition?</p> <p>24 A. I was doing work then and I'm</p> <p>25 continuing to do that work now.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 Q. What kind of work are you doing for</p> <p>3 Barclays now?</p> <p>4 A. Currently doing one staple financing.</p> <p>5 Q. Can you tell me, describe generally</p> <p>6 the nature of that one project?</p> <p>7 A. Represent Barclays as lender.</p> <p>8 Q. Approximately how much of your time in</p> <p>9 a given month do you spend on that engagement?</p> <p>10 A. Very small amount. A couple percent</p> <p>11 at the most.</p> <p>12 Q. And approximately how much money did</p> <p>13 you receive from Barclays in 2009 related to</p> <p>14 that engagement?</p> <p>15 A. Zero.</p> <p>16 Q. How about 2010?</p> <p>17 A. Zero.</p> <p>18 Q. What is the nature of your</p> <p>19 compensation or do you expect to receive any</p> <p>20 compensation for that work for Barclays?</p> <p>21 A. Yes.</p> <p>22 Q. When would you receive that?</p> <p>23 A. When the deal closes.</p> <p>24 Q. And what is generally your deal</p> <p>25 regarding compensation for that work?</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 J. Seery</p> <p>2 A. Hourly fees.</p> <p>3 Q. What hourly fee will you receive from</p> <p>4 Barclays related to that work?</p> <p>5 A. Me personally?</p> <p>6 Q. Yes.</p> <p>7 A. None.</p> <p>8 Q. How much will your -- will Sidley</p> <p>9 receive?</p> <p>10 A. Hopefully everything we bill.</p> <p>11 Q. Do you bill at a normal hourly rate?</p> <p>12 A. Normal hourly rates.</p> <p>13 Q. Are you getting paid for your time</p> <p>14 today?</p> <p>15 A. No.</p> <p>16 Q. How many times have you met with any</p> <p>17 counsel for Barclays related to this Lehman</p> <p>18 Brothers case?</p> <p>19 A. You mean with respect to my deposition</p> <p>20 or going back all the way to prior to filing?</p> <p>21 Q. Since your last deposition.</p> <p>22 A. Once or twice.</p> <p>23 Q. Approximately when was the first time</p> <p>24 that you had any contact with a Barclays</p> <p>25 attorney following your last deposition?</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know whether it was sometime in</p> <p>4 2009?</p> <p>5 A. I certainly talked after the</p> <p>6 deposition. I don't know what the timeframe was</p> <p>7 or the dates.</p> <p>8 Q. Did there come a time where you</p> <p>9 reviewed documents with counsel for Barclays</p> <p>10 related to this case after your last deposition?</p> <p>11 A. Yes.</p> <p>12 Q. Approximately when was that?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you know if it was in 2009 or 2010?</p> <p>15 A. I believe it was in 2010, but I don't</p> <p>16 recall.</p> <p>17 Q. And did somebody -- how did that</p> <p>18 interaction begin? Did somebody call you?</p> <p>19 A. I don't recall. We -- I didn't call</p> <p>20 them so I assume they called me.</p> <p>21 Q. And which of the counsel for Barclays</p> <p>22 did you have interactions about when you</p> <p>23 reviewed documents?</p> <p>24 A. Mr. Stern.</p> <p>25 Q. Any other counsel for Barclays?</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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<p>1 <b>J. Seery</b></p> <p>2 A. He had an associate with him.</p> <p>3 <b>Q. What documents have you reviewed</b></p> <p>4 <b>related to the Barclays/Lehman matter since your</b></p> <p>5 <b>last deposition?</b></p> <p>6 A. I've reviewed certain of my notes and</p> <p>7 a -- I believe it was a note, notepad that Sal</p> <p>8 Burian had prepared at some point.</p> <p>9 <b>Q. Any other documents?</b></p> <p>10 A. Not that I recall.</p> <p>11 <b>Q. Did you read any of Sal Burian's</b></p> <p>12 <b>testimony?</b></p> <p>13 A. No.</p> <p>14 <b>Q. Have you read any deposition testimony</b></p> <p>15 <b>of any other witness?</b></p> <p>16 A. I have, yes.</p> <p>17 <b>Q. Who are the deponents that you have</b></p> <p>18 <b>reviewed their testimony?</b></p> <p>19 A. Harvey Miller.</p> <p>20 <b>Q. Any others?</b></p> <p>21 A. There may have been one or two others.</p> <p>22 <b>Q. Anyone from the Committee?</b></p> <p>23 A. Not that I recall.</p> <p>24 <b>Q. Did you review Mike Fazio's</b></p> <p>25 <b>deposition?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 A. No.</p> <p>3 <b>Q. Or Norm Purcell's.</b></p> <p>4 A. No.</p> <p>5 <b>Q. When was the -- had you seen your</b></p> <p>6 <b>notes prior to your deposition the first time?</b></p> <p>7 A. Since I took them, I would have had to</p> <p>8 have seen them.</p> <p>9 <b>Q. Did you review your notes in</b></p> <p>10 <b>preparation for your first deposition?</b></p> <p>11 A. Not that I recall.</p> <p>12 <b>Q. And did your review of your notes</b></p> <p>13 <b>refresh your recollection as to some of the</b></p> <p>14 <b>events that you had testified about in your</b></p> <p>15 <b>first deposition?</b></p> <p>16 A. I don't know that it refreshed it. It</p> <p>17 certainly -- it certainly either amplified it or</p> <p>18 added new facts that -- that I may not have</p> <p>19 thought about, but I probably did not forget.</p> <p>20 <b>Q. And did you also prepare a declaration</b></p> <p>21 <b>in connection with this case?</b></p> <p>22 A. I did.</p> <p>23 <b>Q. Could we mark that as Exhibit -- while</b></p> <p>24 <b>we're getting that marked, I'm just going to</b></p> <p>25 <b>give you a printout of a blank calendar that's</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 <b>J. Seery</b></p> <p>2 <b>for the month of September 2008 just for your</b></p> <p>3 <b>reference for dates.</b></p> <p>4 A. Thank you.</p> <p>5 MS. TAGGART: And so we'll mark as the</p> <p>6 Declaration of James Seery and it has an</p> <p>7 attached exhibit as Exhibit 665.</p> <p>8 (Exhibit 665, Declaration of James</p> <p>9 Seery, marked for identification, as of this</p> <p>10 date.)</p> <p>11 <b>Q. Can you identify what Exhibit 665 is?</b></p> <p>12 A. Looks like a copy of a declaration</p> <p>13 that I gave.</p> <p>14 <b>Q. Did you write the declaration?</b></p> <p>15 A. I did.</p> <p>16 <b>Q. Did you write every word of it?</b></p> <p>17 A. Did I write every word of it? No.</p> <p>18 <b>Q. Who else contributed to the writing of</b></p> <p>19 <b>your declaration?</b></p> <p>20 A. Mr. Stern.</p> <p>21 <b>Q. Were there parts that Mr. Stern</b></p> <p>22 <b>suggested that you took out?</b></p> <p>23 A. Certainly.</p> <p>24 <b>Q. Can you remember what any of them are?</b></p> <p>25 A. No.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 <b>Q. Did you review this before you signed</b></p> <p>3 <b>it?</b></p> <p>4 A. I absolutely did.</p> <p>5 <b>Q. And is it all accurate to the best of</b></p> <p>6 <b>your knowledge?</b></p> <p>7 A. It is.</p> <p>8 <b>Q. Do you -- is it right -- I guess it</b></p> <p>9 <b>looks like you executed this January 28, 2010.</b></p> <p>10 <b>Does that sound right?</b></p> <p>11 A. That's correct.</p> <p>12 <b>Q. Okay. I'd like to ask you a couple of</b></p> <p>13 <b>questions about some of the statements that you</b></p> <p>14 <b>made, and starting on paragraph 5 of that</b></p> <p>15 <b>declaration, it starts, "I understand that one</b></p> <p>16 <b>of the Committee representatives took notes of</b></p> <p>17 <b>conversations we had on the morning of Friday,</b></p> <p>18 <b>September 19, 2008, the day of the approval</b></p> <p>19 <b>hearing." Do you see that?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. And does that refer to the notes of</b></p> <p>22 <b>Sal Burian?</b></p> <p>23 A. It's does.</p> <p>24 <b>Q. And those are the notes that you</b></p> <p>25 <b>attached to the declaration?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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<p>1 J. Seery</p> <p>2 A. Yes.</p> <p>3 Q. And it says, "I reviewed those notes,</p> <p>4 which are attached as Exhibit 1." It says, "The</p> <p>5 notes refreshed my recollection that I was very</p> <p>6 clear in explaining that there was a \$5 billion</p> <p>7 difference between the marked value of the</p> <p>8 assets in the Fed repo (which I believed was</p> <p>9 \$50.6 billion) and the amount advanced in the</p> <p>10 Fed repo to purchase those assets (which I</p> <p>11 believed was \$45.5 billion.)"</p> <p>12 A. Yes.</p> <p>13 Q. Before I ask about those specific</p> <p>14 statements, now that you have reviewed those</p> <p>15 notes, can you tell me everything that you</p> <p>16 recall about the conversation that you had with</p> <p>17 Mr. Burian or anyone else from the Committee on</p> <p>18 September 19, 2008?</p> <p>19 A. Yes. Some of this will augment my</p> <p>20 prior testimony because I think you at least</p> <p>21 touched on it then.</p> <p>22 I was in Alex Kirk's office on the</p> <p>23 31st Floor at the Lehman Brothers Building, 745</p> <p>24 Seventh. We had been working all morning with</p> <p>25 Barclays to try to revise the deal to make it</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 work in the context that JPMorgan was not</p> <p>3 turning over securities, is my recollection,</p> <p>4 that were part of the original package.</p> <p>5 Barclays had advanced money on the</p> <p>6 repo by that point, and we were walking through</p> <p>7 or I was walking through with the Committee</p> <p>8 representatives, which included Mr. Burian and</p> <p>9 Mr. Fazio and perhaps others, on a phone from</p> <p>10 Alex's office -- he was not in the office -- the</p> <p>11 changes to the positions that the Lehman</p> <p>12 Brothers, Inc. would be able to deliver to</p> <p>13 Barclays.</p> <p>14 Q. So let's talk, before the conversation</p> <p>15 starts, you mentioned that you were working with</p> <p>16 Barclays to revise the deal. Whom at Barclays</p> <p>17 were you working with?</p> <p>18 A. We went through that on the last</p> <p>19 deposition, but there were a number of people.</p> <p>20 They included Mike Keegan, Rich Ricci, Bob</p> <p>21 Diamond, and a number of -- a number of folks on</p> <p>22 the phone.</p> <p>23 Q. And describe to me how the deal</p> <p>24 changed.</p> <p>25 A. Again, we went through that</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 J. Seery</p> <p>2 previously, but there were a number of changes</p> <p>3 related to the securities that could be</p> <p>4 delivered. Because of the incidents that we</p> <p>5 discussed at decent length last time, Barclays</p> <p>6 was extremely nervous about the -- the repo</p> <p>7 collateral that they had received. The markets</p> <p>8 were incredibly volatile overnight in Asia and</p> <p>9 Europe, and there was extreme nervousness at</p> <p>10 Barclays on Thursday night and Friday morning</p> <p>11 about what they were receiving, including the</p> <p>12 previously discussed Racers Trust, which they</p> <p>13 didn't feel was an appropriate repo position and</p> <p>14 they didn't take from -- from JP that night.</p> <p>15 So we went through a number of</p> <p>16 potential scenarios to try to revise the deal to</p> <p>17 make sure that we could get it closed with</p> <p>18 respect to both the securities that they would</p> <p>19 receive and then certain others that they</p> <p>20 wouldn't.</p> <p>21 Q. You said that Barclays was nervous</p> <p>22 about the repo collateral they received. Who in</p> <p>23 particular said anything from Barclays that led</p> <p>24 you to believe that Barclays was nervous about</p> <p>25 that repo collateral?</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 A. Well, certainly from the Barclays</p> <p>3 side, Keegan and I had very specific direct</p> <p>4 conversations about it. We talked I think</p> <p>5 previously John Mahon in London was the one who</p> <p>6 had questioned me about certain of the</p> <p>7 securities they were getting on late Thursday</p> <p>8 night, and we talked about it amongst the group</p> <p>9 of Lehman folks who were responsible for getting</p> <p>10 the transaction closed, which included Bart</p> <p>11 McDade and Alex Kirk.</p> <p>12 Q. And to the best of your recollection,</p> <p>13 what exactly did Mr. Keegan say on the question</p> <p>14 that Barclays was nervous about the repo</p> <p>15 collateral they had received?</p> <p>16 A. Basically he was extremely nervous</p> <p>17 that what they were received -- what they had</p> <p>18 received and what they were receiving was not</p> <p>19 worth nearly what it was marked at and what they</p> <p>20 had advanced against it, and he -- he didn't</p> <p>21 want to close the trade on that basis and was</p> <p>22 pushing the Lehman team to find, you know,</p> <p>23 better or more assets to make sure that Barclays</p> <p>24 received what they had thought they bargained</p> <p>25 for.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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**Q. What was the collateral marked at?**

A. That's a question that's -- there's no single mark on -- that covers that entirely collateral pool. It's thousands and thousands of securities.

**Q. Well, what was his basis of saying that it was not -- what he received was not worth the value it was marked at?**

A. They claimed that they had looked at a number of the items that they received and didn't like the valuations, particularly around certain of the structured products that were delivered in as part of the repo, and in fact they felt, and we discussed this last time, that JP had tried to, in the vernacular, stuff them with a structured trade, referred to as the Racers, which they didn't think was appropriate repo collateral and that heightened their nervousness about things that they had actually received.

**Q. Had -- did Lehman have marks for the securities that were going over?**

A. Yes.

**Q. And as of September 19, what was the**  
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**most recent time that Lehman had marks for those securities?**

A. They would have been marked every day. If the mark had not changed, it would be reaffirmed, but it doesn't mean that for all of those securities that, you know, there was an active market or that somebody could, you know, necessarily mark that to market. Some of them were marked to model. Others were probably not as actively marked as maybe they could have been.

**Q. And did Lehman pull or find what was the current mark for each of the securities that were in the collateral?**

A. I believe, and I don't know, but I believe that every security in the thousands and thousands of securities had a mark. How fresh that mark was I don't know.

**Q. Was there a document that listed what the Lehman marks were for the securities that were going to Barclays?**

A. There was a document that listed every security with a mark next to it, yes.

**Q. And did you see that document?**

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A. I don't recall. I certainly saw it at certain times. I don't recall whether I had seen it that morning.

**Q. And do you know what was the aggregate value according to Lehman's marks of the collateral that was going to Barclays as of September 19?**

A. I believe it was about \$50 billion.

**Q. Did Barclays give you any documents that supported their contention that that collateral was worth less?**

A. No.

**Q. Did they -- did they do their separate mark to market to justify their claim that the value was worth less?**

A. They said they were marking every item, yes.

**Q. And did they describe at all the procedures that Barclays was using for marking every item?**

A. No. No. We talked -- Mike and I talked generally about categories of items where they had a strong feeling that because of the illiquid nature of those marks, that there was

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no real market, and that if you actually tried to sell it, you wouldn't be able to achieve the value that Lehman had marked it at.

**Q. Did you ask for any documents about Barclays' valuation of the securities?**

A. I don't recall.

**Q. Did anybody at Barclays mention concerns about any specific securities besides the Racers?**

A. Certainly Mike did, and they included some of the other structured securities that were part of the package.

**Q. Do you remember --**

A. Those were easier for him to dispute because he would be sometimes familiar with the underlying assets that were in the -- in the structure. So he would -- he can argue that something was, he didn't think, marked right because he was familiar with that particular asset.

So, for example, Mike was very familiar with the Archstone assets and had a different view about the value of the subordinated classes of securities in that

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structure than perhaps others did because he had the senior and thought he might be impaired on the senior.

**Q. Do you remember any other specific securities that Mr. Keegan pointed out that he disagreed with the value besides Archstone and Racers?**

A. It wasn't a line-by-line, you know, I disagree with this one or this one looks good. That, again, would be thousands of lines. Categories of securities, particularly the CDO securities were the ones that he had the most trouble with, specifically mentioning, as I mentioned, the Racers, which they did not take, Spruce Pine and Verano, some of which they did take. Those were the ones that Mike could easily call up.

**Q. And just to confirm, the Racers that Barclays did have concerns over the value were not part of what ultimately went over to Barclays as part of the deal; is that correct?**

A. That's correct.

**Q. Did Barclays give -- tell you what value they believed the collateral that had been**

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**transferred was worth?**

A. They did. I don't recall the number. They had a -- they definitely had a lower number. I just don't recall what they had indicated it was.

**Q. And who in particular told you that number? Was that Mike Keegan?**

A. I believe it was Mike. It wasn't -- it wasn't a one-on-one here's my number versus your number.

**Q. Do you know anybody else at Barclays who told you a number that they thought was associated with either the aggregate or any particular security that had come over from Barclays?**

A. No, not that I recollect.

**Q. Did John Mahon say anything about that?**

A. Not the gross number, no.

**Q. Did you make any response to Mr. Keegan or anyone else at Barclays about what you thought the value of those securities were worth?**

A. I did and -- I did and we did.

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**Q. And what was your response?**

A. We told -- we pushed hard that we thought our marks were accurate, that while you had a volatile time, you know, we thought we modeled them well where they didn't have liquid marks in the street that you could check, and otherwise, they were -- they were accurate.

**Q. And did you in particular take the position that the value of the securities that went to Barclays was over \$50 billion?**

A. It was right around that level. It was at the marked level.

Now, what we did also do, and some of the documents that I produced to you reflect that, was we took their arguments and decided to check them with our traders.

**Q. Okay. You said that "we told Barclays that the marks were accurate." Who is the "we" you were referring to?**

A. That calls for a joke, but I won't use it.

The "we" was just generally I was referring to the Lehman team.

**Q. And who was the Lehman team that was**

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**part of conveying the opinion that Lehman's marks were accurate and the value of the collateral was over \$50 billion?**

A. Certainly me. Certainly Alex. I don't know, you know, whether Bart had that specific discussion. But understanding it was part of negotiation, we took the view that higher was better and we were going to push for a higher value.

**Q. And so Alex Kirk, is that the other?**

A. Yes.

**Q. Anyone else besides yourself and Alex Kirk that you specifically remember pushing back and saying Lehman's marks were accurate and the value of Barclays' collateral was over \$50 billion?**

A. Not that I recall in those meetings.

**Q. Okay. Do you remember any discussion on this topic with Bart McDade on September 19?**

A. We talked -- I was generally in meetings with Bart and certainly talked about the concerns that Barclays had with the collateral and the value of it and trying to put a mark on it at that day at that time, yes.

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**Q. And what do you remember Bart McDade saying in specific or general on that question of whether Barclays' concerns about the value of the collateral had any validity?**

A. I don't remember Bart opining as to whether, you know, the marks were right or not. We all understood that in that week there could be, you know, differences of value on some of these assets, and when you were transferring 50 billion of it, if you actually tried to value it on a liquidation basis, it would certainly be a liquidation bid which would be lower.

So we recognized that argument. We also recognized that, in our view, Barclays was buying the entirety of the Lehman estate and business at a tremendous value and that we should try to push for, as best we could, getting the most irrespective of what the marks might be.

**Q. Sorry, just to follow up, do you remember what specifically Bart McDade said on the issue of what the value of the collateral was as of September 19?**

A. I don't recall at this time

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specifically what he said, but it would have been in the same category that I just discussed.

**Q. And what did you mean by there was a general consensus that Barclays was buying the entirety of the estate and the business at a good -- at tremendous value?**

A. I don't think anyone who was around the transaction didn't think that the Lehman franchise, particularly in equity and fixed income in the U.S., was, you know, extremely strong, extremely valuable, and that, you know, the fact that we had run out of liquidity related to mortgages and real estate, you know, was not, you know, an indictment of that franchise and that it had, you know, cash-generation ability that was significant, and if not the best on Wall Street, one of the top couple on Wall Street. And I don't think that was lost on anybody on our side.

I think Barclays was extremely nervous because for them it was a bet-the-house trade. So they didn't see it, they hadn't had a successful business like that in the U.S.

previously, and, you know, I think that they --

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they probably looked over at, you know, losing the bid on ABN Amro, I'm just guessing and saying, God, we got lucky, so don't make that bid. And they were very nervous and no one else was showing up, and I think that might have scared them a little bit too, but they were -- they were nervous about -- not about, I don't think, the franchise -- about overpaying and not having the ability to get the business back to where it needed to be.

**Q. Did you personally have a view on what the correct value was of the Lehman franchise, putting aside the securities?**

A. The entire Lehman franchise?

**Q. The Lehman franchise that Barclays was purchasing.**

A. Yes, I thought that it was, you know, I don't know what the actual, you know, dollar value would have been, but it should have been worth at least -- you know, the deal that was done at the Fed was probably still really cheap, but 3, 3 -- it was either \$3 or 3 pounds a share swap for Barclays stock without the real estate, without the mortgages. That was the global

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business, but that was still super cheap.

**Q. I'm going to return to something you said earlier, and that was when -- when Lehman folks were pushing back with Barclays, they were describing that they believed Lehman's marks were accurate and that for the illiquid securities, that there was -- they were modeled well.**

**What did you mean that they were modeled well?**

A. That the -- that the estimated recoveries reflected in the mark were accurate.

**Q. What did you mean by modeling -- or, maybe you can describe what generally was the process that Lehman used to come up with marks for securities that were more illiquid?**

A. Yes, we went through this on our last deposition. So you can generally what folks do and what Lehman did was mark to market, which means if you have a, you know, ascertainable market that you can identify, you mark those securities to where that market trades in a liquid basis. If the market is a little less liquid, it's a little bit less scientific, and

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<p>1 J. Seery</p> <p>2 if the market is totally illiquid, then you</p> <p>3 can't mark to, you know, observable trades, you</p> <p>4 have to mark to where you think the recoveries</p> <p>5 will come out based upon financial modeling of</p> <p>6 the asset.</p> <p>7 <b>Q. And generally what was the process to</b></p> <p>8 <b>try to do financial modeling for an asset that</b></p> <p>9 <b>was totally illiquid?</b></p> <p>10 A. Every -- every asset was a little bit</p> <p>11 different. It meant that you modeled that asset</p> <p>12 based upon experience, based upon comparables,</p> <p>13 based upon a view of current interest rates,</p> <p>14 obviously duration, sometimes based upon what a</p> <p>15 particular deal dynamic might be.</p> <p>16 <b>Q. Were you personally involved in that</b></p> <p>17 <b>level of modeling?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. And were you involved in modeling for</b></p> <p>20 <b>the securities any of the securities that went</b></p> <p>21 <b>over to Barclays?</b></p> <p>22 A. We discussed that as well. The answer</p> <p>23 is no. Some of the underlying assets in some of</p> <p>24 those securities were marked by my business.</p> <p>25 <b>Q. But you were familiar generally with</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 <b>this process that Lehman was using to mark</b></p> <p>3 <b>illiquid securities, right?</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. And you had -- you had confidence in</b></p> <p>6 <b>it at the time?</b></p> <p>7 A. Yes.</p> <p>8 <b>Q. Did you show Barclays any documents</b></p> <p>9 <b>that supported Lehman's marks?</b></p> <p>10 A. No.</p> <p>11 <b>Q. Did you show any documents at all that</b></p> <p>12 <b>supported the value of the collateral that</b></p> <p>13 <b>Lehman believed was being transferred to</b></p> <p>14 <b>Barclays?</b></p> <p>15 A. Not -- I think -- I don't recall. I</p> <p>16 believe we talked, you know, specifically about</p> <p>17 some of the items that Mike mentioned and walked</p> <p>18 through the underlying collateral, for example,</p> <p>19 in those collateralized deals that I mentioned</p> <p>20 earlier.</p> <p>21 What you have to remember, and the</p> <p>22 deposition should certainly reflect, is that</p> <p>23 this all took place in a span of just a few</p> <p>24 hours. So, on Thursday night going into Friday,</p> <p>25 I believe we originally were scheduled to be at</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 J. Seery</p> <p>2 the court at noon and we had to kick that time</p> <p>3 till I believe 2 or 3 or 4.</p> <p>4 So this was really a very compressed</p> <p>5 timeframe to get this done. This wasn't a</p> <p>6 situation where, you know, in the benefit of</p> <p>7 hindsight and say, okay, we have six weeks to</p> <p>8 cut an M&amp;A deal and we'll sit down and review</p> <p>9 line-by-line with you and you show us why you</p> <p>10 disagree and then we'll take out a model and</p> <p>11 we'll compare interest rate assumptions, we'll</p> <p>12 compare duration assumptions, we'll look at</p> <p>13 recoveries. This took place in a matter of a</p> <p>14 couple hours.</p> <p>15 <b>Q. When you or Alex Kirk were saying to</b></p> <p>16 <b>Barclays about the marks being accurate and</b></p> <p>17 <b>modeled well, was this said specifically to Mike</b></p> <p>18 <b>Keegan?</b></p> <p>19 A. I certainly said it to Mike, and it</p> <p>20 was part of the negotiation. Mike was trying</p> <p>21 to -- he was nervous and trying to get more, and</p> <p>22 we didn't want to give more.</p> <p>23 <b>Q. Who else did you or anyone else at</b></p> <p>24 <b>Lehman tell at Barclays about Lehman's marks</b></p> <p>25 <b>being accurate and modeled well?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 A. I don't know if the level -- I don't</p> <p>3 recall the level of detail in other discussions.</p> <p>4 Certainly Rich Ricci was around of those</p> <p>5 discussions. I don't recall the level of</p> <p>6 detail, whether there was anything specifically</p> <p>7 said about a mark or not. And I believe that</p> <p>8 Bob Diamond was around at least part of those --</p> <p>9 not believe -- I know him to be around at least</p> <p>10 one of those discussions.</p> <p>11 <b>Q. Is the modeling done using a computer</b></p> <p>12 <b>program?</b></p> <p>13 A. Each -- there's no -- there's no</p> <p>14 off-the-shelf program that you can buy as your,</p> <p>15 you know, Quicken Model Illiquid Securities</p> <p>16 Program. So everyone uses a variety of</p> <p>17 different models that they build, and they can</p> <p>18 build it from a variety of different software.</p> <p>19 And there was no standard, to my</p> <p>20 knowledge, standard modeling program at Lehman.</p> <p>21 So I know for the securities that I was</p> <p>22 responsible for throughout my career different</p> <p>23 analysts would put together different models</p> <p>24 based upon, you know, assumptions that we made</p> <p>25 with respect to those securities and those</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

1 J. Seery  
2 markets.  
3 I assume that was the way it was done  
4 elsewhere. They were sometimes built on Excel.  
5 They were sometimes built on other programs.  
6 **Q. And this conversation that we've been**  
7 **discussing so far where Lehman traders are**  
8 **speaking with Mike Keegan and others at**  
9 **Barclays --**  
10 A. No.  
11 **Q. I'm sorry?**  
12 A. No.  
13 **Q. Oh, sorry. It wasn't Lehman traders?**  
14 A. No.  
15 **Q. Strike that.**  
16 **So far, this conversation that we've**  
17 **been speaking with folks at Lehman speaking with**  
18 **folks at Barclays about the value of the**  
19 **collateral that had been transferred, is this on**  
20 **Friday, September 19?**  
21 A. Yes.  
22 **Q. Okay. And I understand the next thing**  
23 **that happens is there's a communication with**  
24 **Lehman traders. Before that, is there anything**  
25 **else specifically that you remember about those**  
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1 J. Seery  
2 respect to or challenges with respect to the  
3 marks and the value, I, and also in conjunction  
4 with trying to make sure that we had a good  
5 liquidation view as to this collateral, I,  
6 working initially with Alex and then with Barry  
7 Ridings, went directly to traders in the High  
8 Grade and the High Yield universe as well as the  
9 Treasury and Interest Rate Groups to figure out  
10 what the appropriate liquidation bid would be  
11 with respect to this collateral.  
12 And it was not -- it had to be done  
13 very fast, and I mean like a half an hour or  
14 less, and it was, in the market today, if you  
15 had to liquidate this collateral quickly, and I  
16 can't tell you it's an hour, two hours, five  
17 hours or -- but very quickly, within a couple  
18 days, what would you expect to get, and that  
19 was, you know, subjective, but borne of  
20 experienced -- borne from experienced traders  
21 and their view as to the volatility in the  
22 market, the quality of the assets' liquidity in  
23 the market and the lack of it, and what would  
24 happen if 50 billion in securities hit the  
25 market in rapid succession.  
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1 **J. Seery**  
2 **discussions between the Lehman folks and the**  
3 **Barclays folks concerning the value of Barclays'**  
4 **collateral?**  
5 A. Not that I recall. That's a pretty  
6 broad question, but I think I've given you the  
7 major substance.  
8 **Q. And do you have a sense of what time**  
9 **of day this first meetings and conversations**  
10 **took place?**  
11 A. Morning of Friday, the 19th.  
12 **Q. So what's the next thing that you**  
13 **folks do, that you do personally?**  
14 A. Okay. So, so, there are a couple  
15 things that we needed to get ready for the  
16 court. Barclays was -- we were trying to figure  
17 out how to put the deal together to make sure  
18 that Barclays didn't walk from it, wanted to  
19 assure that we were getting the most we could,  
20 and we had to restructure some of the positions  
21 that were not going to be able to get  
22 transferred. So the basics of the deal would  
23 stay the same. Some of the line items were  
24 going to change.  
25 In response to Barclays' queries with  
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1 J. Seery  
2 **Q. Okay. Who in particular were the**  
3 **traders that you spoke with on this topic?**  
4 A. It's probably 30 different people.  
5 **Q. Was there -- did you speak to all 30**  
6 **or did you have a point of contact?**  
7 A. Got the senior traders all in a room  
8 and said here's what we need, here's the  
9 category of assets that you're responsible for,  
10 we're going to come back and circulate and come  
11 back to each of you and we need -- we need a  
12 view as to where -- what kind of discount you  
13 would be forced to take if you were to liquidate  
14 these assets in a relatively short period of  
15 time.  
16 **Q. Did you assign out all of the assets**  
17 **that had been given to Barclays, or a subset?**  
18 A. I don't --  
19 MR. STERN: Objection to the form.  
20 A. I don't know if it was all of the  
21 assets or it was categories of assets. So I  
22 didn't -- we didn't go to, for example, I would  
23 not have gone to the fig high grade trader and  
24 asked him how much would you sell JP Morgan  
25 securities for, how much would you sell Goldman  
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<p>1 J. Seery 2 securities for. It was, here's the category, 3 you've got to tell us where these assets are 4 generally trading, and if a heavy offering hit 5 the market, where would the bid be. 6 MR. STERN: Let me just -- I'll just 7 explain my objection to form. Just -- 8 MS. TAGGART: No, that's okay. 9 MR. STERN: No, just so the record is 10 clear. 11 MS. TAGGART: No, that's all right. 12 MR. STERN: No. No. It's not okay. 13 The record has to be clear. 14 MS. TAGGART: No, you just get to 15 object to form. I understand that you're 16 objecting to form. I don't want to hear any 17 more. You often don't like it when I -- 18 MR. STERN: Let me just state it for 19 the record. 20 MS. TAGGART: No, I don't want it and 21 I don't want any speaking objections. Your 22 objection to form is there. I understand 23 it. 24 MR. STERN: I'm going to state for the 25 record -- TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery 2 MS. TAGGART: I don't want you to 3 state it for the record. 4 MR. STERN: -- so that I'm clear -- 5 MS. TAGGART: That's a speaking 6 objection. I think it's coaching and I 7 don't want to hear it. I just want the form 8 objection. 9 MR. STERN: Can we go off the record 10 and I'll explain to you off the record 11 outside the presence of the witness? 12 MS. TAGGART: Yes, let's go off the 13 record. 14 THE VIDEOGRAPHER: The time is 9:25 15 A.M. We're now off the record. 16 (Pause in the proceedings.) 17 THE VIDEOGRAPHER: The time is 9:26 18 A.M. We're now on the record. 19 BY MS. TAGGART: 20 <b>Q. So I want to return back to this</b> 21 <b>meeting that some folks at Lehman have with</b> 22 <b>traders regarding this liquidation value.</b> 23 <b>First of all, do you remember anyone</b> 24 <b>else who was involved at all in the Lehman</b> 25 <b>negotiation side who was at this meeting besides</b> TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 J. Seery 2 <b>yourself, Alex Kirk and Barry Ridings?</b> 3 A. Alex Kirk was not at that meeting. 4 <b>Q. Okay.</b> 5 A. And I don't recall if Barry was at 6 that meeting or not. I don't think so. 7 <b>Q. Anyone besides yourself who spoke to</b> 8 <b>the traders about what the traders were supposed</b> 9 <b>to try to figure out?</b> 10 A. Who was also at the other meetings? 11 <b>Q. Yes.</b> 12 A. No. 13 <b>Q. Anybody else besides traders who</b> 14 <b>wasn't at the other meetings?</b> 15 A. Yes. 16 <b>Q. Who?</b> 17 A. Peter Hornick. 18 <b>Q. Who is Peter Hornick?</b> 19 A. Peter was responsible for the CDO 20 business, structuring and sales, at that time. 21 <b>Q. Anyone else?</b> 22 A. Well, there were all the traders 23 there. 24 <b>Q. In addition to the traders?</b> 25 A. No. TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery 2 <b>Q. Okay. And was it you specifically who</b> 3 <b>gave the instruction to what the traders were</b> 4 <b>supposed to do?</b> 5 A. Yes. 6 <b>Q. And to the best of your recollection,</b> 7 <b>what exactly were the words that you said? I</b> 8 <b>understand the time --</b> 9 A. I have no specific recollection of the 10 words. I can tell you what generally was 11 requested, which is what I already said. 12 <b>Q. Okay.</b> 13 A. Which was we want you to provide us 14 with a view as to the liquidation bid for these 15 assets. If you had to sell the full size in a 16 short period of time, what kind of discount 17 would you need to give to buyers in order to 18 move that full size. 19 <b>Q. Why did you give that instruction?</b> 20 A. Because I was having a discussion 21 with -- I think I gave that already, but we were 22 having a discussion with Barclays where they 23 were saying our marks weren't reflective of the 24 actual market, and if you went to liquidate 25 these assets, you wouldn't get nearly that TSG Reporting - Worldwide 877-702-9580</p>

J. Seery

amount, and we wanted to make sure that Barry had support for testimony regarding liquidation.

**Q. Is -- is that test, the test of the view as to liquidation bid as to assets, the same test that's usually used for mark to market?**

A. Well, mark to market, no, because mark to market, you know, you're looking at the market, but you do have to consider the size and how much you would have to move. So there should be, to some degree, a liquidation -- a liquidity discount if your size in the securities is particularly high.

So if you're going to move, you know, a large, large size, you have to consider that when you're marking your positions. I think the more liquid the securities, the deeper the market, the less concern there is for a liquidity bid. Obviously with illiquid securities, that's built into the analysis.

**Q. Did anybody at Barclays express the view that they thought that the right value and price they should pay would reflect the price that they would get if they put all of the 50**

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J. Seery

**billion or so securities in the market?**

A. Not the way you have just framed it. The answer is that, in talking to Mike Keegan, Mike, you know, reflected a view that the markets and the -- the marks that we had were not reflective of the market and that you couldn't move the positions at the levels we had, and that certainly implied that the size you were talking about moving, you know, couldn't be sold in the market for the amounts that, you know, we had marked, and that was their view.

**Q. Did anybody at Lehman tell you to go to the traders to ask for this particular value about the liquidation bid as to all the assets if you had to sell it at the full size?**

A. I don't know if anyone told me to do it. We discussed, okay, how do we respond to Mike and how do we make sure that Barry has what he needs for a liquidation analysis. I don't know if I came up with it on my own or Alex did or someone else, but said let's go talk to our traders and test this. If we can come back to Keegan and say, look, we just talked to our

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J. Seery

guys, no discount, you know, what will your traders say?

And in certain of the assets there would have been, even in a very volatile time, less of a discount than at other times. The deeper the market the less of a discount, and it really would depend on what was in our book as well.

**Q. Did anybody at Barclays say that they intended to sell the securities very quickly, very soon, and all at once?**

A. Not that I recall.

**Q. And do you know one way or another whether that's what Barclays actually did with the securities?**

A. I don't know. Actually, I do know.

**Q. And?**

A. They wouldn't do that.

**Q. And have you ever heard the term "fire sale" regarding securities?**

A. Have I ever heard the term "fire sale" regarding securities? Certainly.

**Q. What do you understand the term generally to mean, a "fire sale"?**

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J. Seery

A. You want the whole etymology of the phrase or --

**Q. I'd like to know what, if somebody says that there is a fire sale related to securities, what would they be referring to?**

A. I think they're just using it as an idiom, that there's actually no fire and they're not selling the goods from the store, but they mean they're selling it very quickly.

**Q. Would you describe the value that you were trying to get an estimate of as a fire sale value?**

A. That might be a way to do it. I don't think that I did.

**Q. So did you give documents to the traders?**

A. I don't recall.

**Q. And do you know if what you were asking them to value was the -- what was in the Fed repo or what had been transferred to Barclays?**

A. I don't recall. I just don't recall. I don't remember if we gave them specific positions -- they obviously know their

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1 J. Seery  
2 positions -- or we just told them look at your  
3 entire size and see if -- if you went to  
4 liquidate that, where you would -- where you  
5 would come out. And then we could apply the  
6 percentages to the total.

7 **Q. Okay. After you give this**  
8 **instruction, then what happens?**

9 A. They leave the room, and I believe  
10 they go and do that and come back to me with  
11 information.

12 **Q. Okay. And what was the information**  
13 **they came back with?**

14 A. They came back with various discounts  
15 to the -- to the current mark that we had,  
16 depending on the security.

17 **Q. How many people reported to you**  
18 **directly?**

19 A. We went through that on the last one,  
20 but I don't recall the number. It was -- there  
21 weren't too many, but at least ten or twelve.

22 **Q. And did they communicate their results**  
23 **to you verbally or in a document?**

24 A. I believe verbally and we wrote it  
25 down, but I don't recall exactly. Some guys  
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1 J. Seery  
2 might have given us a page, they might have done  
3 a quick model. Other guys might have called up  
4 and said, "Here's the information," or, "I took  
5 a broad look at my stuff, and the market's  
6 pretty deep, you know, just a couple percentage  
7 points." Some guys might have said zero. I  
8 don't recall. Some of those documents I  
9 produced to you at least with the categories and  
10 the -- the haircut discount or the liquidation  
11 discount.

12 MS. TAGGART: Let's mark as Exhibit  
13 666 a document that goes JS-LB-BANKR000001  
14 through 70.

15 (Exhibit 666, a document bearing Bates  
16 Nos. JS-LB-BANKR000001 through 70, marked  
17 for identification, as of this date.)

18 **Q. I guess before we get to the document,**  
19 **tell me anything that sitting here today you**  
20 **actually remember a person saying related to a**  
21 **discount. Do you remember any words any**  
22 **specific person said?**

23 A. The way you just -- you got to give  
24 me -- since you're asking the questions, you  
25 know, I don't want to coach you, but you got to  
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1 J. Seery  
2 ask me the question you want to ask. You just  
3 asked me do I remember anybody saying anything  
4 about a discount? Like what? At Macy's?

5 **Q. Sure. When the traders came back to**  
6 **report their results?**

7 A. Yes.

8 **Q. Do you remember what any specific**  
9 **person said when they reported their results?**

10 A. Right now do I recall the specific  
11 words? No.

12 **Q. Do you remember -- well, first of all,**  
13 **each trader reported on their -- on their**  
14 **specific categories; is that correct?**

15 A. Correct.

16 **Q. And did you then combine all that**  
17 **information to come up with what was the**  
18 **aggregate discount that you believe came out of**  
19 **that information?**

20 A. Yes.

21 **Q. Okay. So let's look now at what I've**  
22 **put before you as Exhibit 666. Can you identify**  
23 **this document?**

24 A. It's kind of evil. That's very funny.  
25 These are documents that -- excuse me.  
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1 J. Seery  
2 I got a good chuckle out of that -- these are  
3 documents that are part of some notes that I  
4 have with -- from around the time that Lehman  
5 was sold to Barclays.

6 **Q. And if you turn to the very last page**  
7 **that ends in the Bates that ends in 70, does**  
8 **this relate to the information that you received**  
9 **from Lehman traders?**

10 A. This does.

11 **Q. Okay. Can you just flip through to**  
12 **see, are there any other pages that relate to**  
13 **the information that you got back from Lehman**  
14 **traders?**

15 A. I don't think so. I mean, there are  
16 some -- I don't think so.

17 **Q. Okay. So can you describe what is**  
18 **being shown here on that last page that's 70? I**  
19 **can -- did you create this document?**

20 A. I don't believe I created it. I don't  
21 know who did this for me.

22 **Q. Did you give input into this document?**

23 A. Yes, I believe so.

24 **Q. And did you see it on the morning of**  
25 **September 19?**

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**J. Seery**

A. I believe I did, yes.

**Q. Okay. What does it mean, "long," parentheses, "Fed facility"?**

A. These are the categories of the assets -- I believe that these are the categories of the assets that were in the facility.

**Q. And what do you mean by "the facility"?**

A. The facility that was pledged to the Fed.

**Q. So is that the collateral that was part of the Fed repo?**

A. I believe so, yes.

**Q. Okay.**

A. This is the categories.

**Q. And so asset type, are those what you're referring to as the categories of securities?**

A. That's correct.

**Q. So would one group or one Lehman trader be in charge of finding out that discount for, for example, agency debentures?**

A. Yes.

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**J. Seery**

**Q. And what is "Lehman MV"?**

A. Market value.

**Q. And what does that refer to?**

A. That is the mark.

**Q. And does that, to the best of your recollection, reflect the market value that Lehman had on its books as of September 19?**

A. That would reflect the mark that Lehman had on its books as of that date.

**Q. And what's the difference between mark and market value?**

A. Well, I don't know if that's actually the market value, so it's what we had in our books as reflecting the market value which we believed to be the market value.

**Q. Okay. What does "haircut" refer to?**

A. That's the discount.

**Q. And is that what the Lehman traders were reporting would be the discount that would need to be given to buyers if there was a liquidation bid for all of the assets in the Fed facility if they sold it at its full size?**

A. That's my recollection, yes.

**Q. And so, for example, if we look**

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**J. Seery**

**through agency debentures, what does that generally refer to?**

A. These are, you know, U.S. agencies that issue, you know, Ginnie Mae, Fannie, Freddie.

**Q. And so 1 --**

A. Fannie and Freddie aren't agencies, but ...

**Q. So 11.8 -- 08 that's next to that, does that mean that Lehman's marks as of September 19 reflected that the agency debentures had a mark to market value of \$11.08 billion?**

A. I believe that's what they reflects, yes.

**Q. And under "haircut" it has 2 percent. Does that mean that Lehman traders reported back to you that if the entire Fed facility were sold at a liquidation value at a short period of time, it might have a discount of 2 percent?**

A. I don't know if they really thought about the entire Fed facility as much as they thought about their own positions.

**Q. Maybe --**

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**J. Seery**

A. If you had to get out of your positions, you know, that's the discount it would take to get out real fast. So whether moving the entire of this, whether they worked into their calculus that the rest of this would be hitting the market at the same time, I don't really recollect.

**Q. And what's .22?**

A. I think that's just the discount multiplied, 11 times 2 percent.

**Q. When you said you're not sure whether they were saying if all of their securities were sold that the liquidation value in a short-term or the entire Fed facility, did they report back to you what their calculation was based on?**

A. Yes. I didn't have 20 traders come to me directly. They would come to different folks who would then assemble the information and then come to me.

**Q. Who would they --  
Sorry.**

A. So they came to different people who they reported to then filtered back up, either got to me or got to Hornick and we put this

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1 J. Seery  
2 together. And I just don't remember who put  
3 this document together.

4 **Q. But this is the number that the Lehman**  
5 **trader came back after hearing your instruction**  
6 **that you wanted the view as to a liquidation bid**  
7 **as to the assets if you sold the full size and**  
8 **what discount you would give to the buyer?**

9 A. That's correct.

10 **Q. And we don't need to go through every**  
11 **column here, but is the same -- would the same**  
12 **be true of the same meaning of what "Lehman**  
13 **Market Value" and "Haircut" means for all of**  
14 **these items in the columns?**

15 A. That's correct.

16 **Q. Okay. And so under the total, do you**  
17 **know what the total was that is kind of**  
18 **scratched out?**

19 A. I think you can see it. I believe it  
20 to be 45. I think you can see it in the  
21 original.

22 **Q. Let's take out the original and see if**  
23 **that's clearer.**

24 **So, again, just for the record, so on**  
25 **this last page of 70, we see that there's total,**

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1 J. Seery  
2 **and in the box there's something that's**  
3 **scratched out. Do you see that?**

4 A. Yes, uh-huh.

5 **Q. And I'm showing you -- does this look**  
6 **like the original of the same document that's**  
7 **marked with a 70?**

8 A. It does.

9 **Q. And can you tell from looking at that**  
10 **original what is the number that was originally**  
11 **under the total that would come under what**  
12 **Lehman MV or their Lehman marks as of September**  
13 **19 was for those -- for that collateral?**

14 A. 50.64.

15 **Q. And under the haircuts that's next to**  
16 **total, can you tell me what that would refer to?**  
17 **Maybe --**

18 A. I assume that percentage is multiplied  
19 by the Lehman market value and totaled at the  
20 bottom.

21 **Q. So does 6.04 reflect the aggregate**  
22 **discounts that your traders reported back would**  
23 **be the view as to the discount to buyers if you**  
24 **had a liquidation bid as to the assets if you**  
25 **sell the full size at a certain amount of time?**

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1 J. Seery

2 A. It does. Again, though, 6.04 looks  
3 awfully scientific. This is not a scientific  
4 exercise. This is their, as I said earlier,  
5 their subjective view as to how the market would  
6 receive these securities if they were to apply  
7 it. So it comes out a little -- looking a  
8 little more scientific, I would think, than it  
9 would be.

10 **Q. This haircut discount for liquidation**  
11 **value is what the Lehman traders were coming up**  
12 **over a very short amount of time; is that right?**

13 A. Correct.

14 **Q. And the 6.04 is not reflected in**  
15 **Lehman's marks as of that time, right?**

16 A. No.

17 **Q. And it's not even reflected in any**  
18 **Lehman official computer program, right?**

19 A. Not that I recall, no.

20 **Q. Okay. Under that is 45.5. What did**  
21 **that figure represent?**

22 A. I don't recall how it came up with  
23 that 45.5. That's my writing.

24 **Q. And what about 1.9BN, what does that**  
25 **represent?**

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1 J. Seery

2 A. I don't recall right now what that is.  
3 I'd have to refresh my recollection on that.

4 **Q. Now, looking underneath, it says**  
5 **"short" and has another chart. Why did you --**  
6 **what was the purpose of this chart?**

7 A. The -- at this point in the day, in  
8 the morning of Friday, the 19th, there were  
9 longs and shorts in this deal.

10 **Q. And did you also ask your Lehman**  
11 **traders to come out with what would be the**  
12 **appropriate discount to buyers if they had a**  
13 **view as to the liquidation bid if the assets all**  
14 **sold very quickly at its full size?**

15 A. Yes.

16 **Q. And did they report back what they**  
17 **were thinking would be the appropriate haircut**  
18 **to such a buyer?**

19 A. I believe so. I don't specifically  
20 recall the short discussions.

21 **Q. Would it also be true, then, like that**  
22 **the Lehman MV refers to Lehman's marks as of**  
23 **September 19 for --**

24 A. Yes.

25 **Q. -- those short positions?**

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**J. Seery**

A. That's correct.

**Q. Do you believe that that haircut then would be the report that the Lehman traders gave about this discount value?**

A. I do, yes.

**Q. And do you know what "long and short netted" refers to?**

A. That should be a combination of the two haircuts multiplied by the sizes.

**Q. I'm remembering an earlier question I should have asked. A long time ago you said that one of the things in one of the earlier meetings that you were doing is that you set out different scenarios for how we might deal with Barclays, the issue that they were unhappy with the collateral they received. Do you remember that?**

A. No.

**Q. Let me see if I can remember it. I apologize for going out of order.**

**I believe earlier you testified that one of the things you were involved in was dealing with potential scenarios to revise the deal -- actually, that's what I have. Do you**

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**J. Seery**

**remember --**

A. Remember that morning we talked about the fact that at some point we learned that JP wasn't going to deliver all of the securities, so those assets that they expected to get and were supposed to be in the trade might not be there.

**Q. Do you know what other -- what scenarios you came up with?**

A. No. "Scenarios" might not have been the appropriate term to use. We considered ways to revise the deal if we weren't going to be able to deliver the securities originally envisioned.

**Q. Okay. Returning back to the conversation with the Lehman traders, is there anything else that you remember specifically discussing with anyone, with a Lehman trader or other people in the presence of Lehman traders, about this haircut that they were coming up with the discount value if there was a liquidation of the entire portfolio at a very short time?**

A. Not specifically.

**Q. Okay.**

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**J. Seery**

A. At this time, I just don't.

**Q. Did you report the information that came back from those Lehman traders about the haircut to anyone?**

A. Did I record it or report it?

**Q. Report.**

A. I certainly discussed it with Alex. I don't recall if there was any discussion with anyone else, and I know -- well, I know I discussed it with Barry Ridings.

**Q. Do you remember what specifically you said to Alex Kirk on that issue?**

A. Not specifically, no.

**Q. What about generally, what did you report?**

A. Generally, here's the numbers they're reporting back if we had to do a fast liquidation. I don't recall if I had a view whether those were liberal or conservative. I just don't remember.

**Q. Did you have any personal view about whether that haircut that your traders came back with was an appropriate haircut for this fast liquidation value?**

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**J. Seery**

A. I didn't really.

**Q. Okay. What about to Barry Ridings, what generally did you report to Barry Ridings out of the information from this?**

A. I have a very vague recollection that here's the number and here's the liquidation view that the traders have.

**Q. Okay. And do you remember if you reported the specific number about what the aggregate would be if all of these collaterals were sold quickly at its liquidation value?**

A. I'm sorry, do I remember if I reported the number?

**Q. Yes.**

A. I suspect that I, I don't recall specifically, but I would have provided the sheet to them.

**Q. So you're saying, although you don't remember specifically, you probably provided the sheet that is in this JS-LB-BANKR70?**

A. I would think so. I can't -- I can't really -- I certainly would have given -- I would not have not given them the number, meaning I would have given them the number.

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J. Seery

**Q. And what number do you mean?**

A. I would have given them the number of the discount. So 6, you know, point 04 or 6 billion on the longs and a bill-1 on the shorts.

**Q. So you believe that you would have reported to Alex Kirk and Barry Ridings that the appropriate discount for this liquidation value if you sold all the securities at a short time would be approximately \$6 billion; is that correct?**

A. The long securities, that's correct.

**Q. Okay. What did Alex Kirk, how did he respond?**

A. I don't -- I don't recall. You know, I just don't recall. We certainly didn't run out and say, okay, Barclays, you're right. We would have said, okay, this is interesting, we should use this information and try and negotiate the best deal we can. But, you know, I don't recall, you know, specific discussion about how we were going to use that number.

**Q. Did anybody give a further basis, any of the traders about any of the numbers that they gave? Besides reporting the number, you**

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J. Seery

**know, did anybody say this is why I thought that this in particular was needed -- was there any more information?**

A. Not that I recall specifically right now.

**Q. Do you remember what Barry Ridings said when you reported this information to him?**

A. No, I don't recall.

**Q. Now, when you reported the number, this \$6.04 billion discount to either Alex Kirk or Barry Ridings, did you explain to both of them how it had been derived?**

A. Yes.

**Q. And did you describe that that was the discount that was based on if it were a full liquidation of all the assets at a short period of time?**

A. I'm sure I did.

**Q. Did you report that to anybody else?**

A. Not that I recall.

**Q. Did you speak about any of this information, meaning the information from Barclays and what discount the traders had come up, to anybody at Barclays?**

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J. Seery

A. No, I wouldn't have.

**Q. Did you overhear any conversations where anyone from Lehman discussed this information about the discount value to anyone at Barclays?**

A. No.

**Q. Did you speak to Bart McDade?**

A. I don't recollect. I don't remember.

**Q. Now, there was a time that you, if I remember right, prepared some of the people for the hearing that was happening on September 19, correct?**

A. Yes.

**Q. And did you speak to Bart McDade in preparation for the hearing?**

A. By phone I did, yes, and then at the courthouse.

**Q. And when you were speaking with Bart McDade, did -- did you speak at all about this -- about the process that you had gone to speak with the Lehman traders?**

A. I don't recollect. I'd be -- I'd be surprised if Bart wasn't generally aware that we were investigating Barclays' claim that the

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J. Seery

numbers weren't right and that he might have heard generally that, you know, and Bart would know intuitively that if you went to liquidate a large size, it would come at a discount.

**Q. Did you speak with Bart McDade at all about that the value generally, the number that was being discussed referred to this liquidation fast, if you sold all the securities at once on the market, that that's what the value that was being discussed?**

A. I don't think I said exactly what you -- the way you framed what -- the question, but generally we talked about value, and I think I just a few minutes ago talked about how we considered what Barclays was saying and thought about, you know, the pressure there would be on the market, et cetera. We were not oblivious to what was going on in the market at the time nor -- and all of us are experienced to know that size matters, and if you want to move a lot, you'd need to do it at a discount.

And so this was reflective, this document reflects a category-by-category view of the traders at that time. I don't recall having

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1 J. Seery  
2 specific discussions with Bart. Frankly, I  
3 don't recall having, you know, specific  
4 discussions about the number with anybody, but I  
5 don't think I just did it and left it there.  
6 **Q. That might have answered my next**  
7 **question. Do you remember discussing the number**  
8 **45.5 with Bart McDade?**  
9 A. I don't recall specifically, no.  
10 **Q. What about 47.4?**  
11 A. I don't recall discussing a specific  
12 dollar number with Bart.  
13 **Q. Okay. And is the same true, do you**  
14 **remember discussing the specific amount of the**  
15 **discount with Bart McDade?**  
16 A. I don't recall.  
17 **Q. Did you prepare Lori Fife at all for**  
18 **the hearing?**  
19 A. I certainly talked to Lori. I  
20 don't -- I don't, you know, I don't know that I  
21 could say I prepared her.  
22 **Q. When you spoke with Lori, do you**  
23 **remember if you spoke to her about this process**  
24 **you had gone through of getting information**  
25 **about the liquidation discount value from your**  
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1 J. Seery  
2 There were numerous things that were  
3 being done by various people, so we used, you  
4 know, people used the information to the extent  
5 that it was required in what they were doing.  
6 **Q. Do you know anyone who was using this**  
7 **information?**  
8 A. Well, again, I don't remember  
9 specifically, but certainly part of the  
10 negotiation as to what was, you know, was there  
11 an appropriate value, Barclays, as we had at the  
12 last session talked about, was seeking more  
13 collateral, transfer of more assets from Lehman  
14 because they thought they were over-advanced  
15 against the assets that they had and were  
16 nervous about it.  
17 **Q. What did you discuss on the issue of**  
18 **what Lehman's position in negotiating with**  
19 **Barclays would be in light of the information**  
20 **about the liquidation discount value?**  
21 A. Well, for the team generally the idea  
22 was to get the deal closed and provide as little  
23 additional assets as we could because, frankly,  
24 there weren't a lot of additional assets that  
25 weren't tied up with somebody else.  
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1 J. Seery  
2 **traders?**  
3 A. I don't believe -- I don't recollect  
4 that I did. I just don't know.  
5 **Q. Do you remember if you talked about**  
6 **any specific number, 45.5, 47.4, or the \$6**  
7 **billion discount or any specific number relating**  
8 **to this project?**  
9 A. I don't recall the specific  
10 discussions with Lori.  
11 **Q. Okay. Did you discuss with anybody**  
12 **else who made a presentation on behalf of Lehman**  
13 **before the hearing?**  
14 A. I discussed the matter and the --  
15 these generally what was going on, certainly, as  
16 I said, with Barry and with Bart.  
17 **Q. What was the next thing that you did**  
18 **after you reported the results of this**  
19 **investigation that the Lehman traders did?**  
20 A. I don't -- I don't recall specifically  
21 the sequence of the things that I did that  
22 morning, but this was certainly -- we took this  
23 information, digested it, thought about how that  
24 impacted our position in terms of negotiating  
25 with Barclays.  
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1 J. Seery  
2 **Q. Any more specific strategies of what**  
3 **was going to be done with the information that**  
4 **you had gotten about this discount, haircut,**  
5 **liquidation value?**  
6 A. No. Certainly, as I said, Barry had  
7 to be prepared on it because he had to give a  
8 liquidation view, and we still were trying to  
9 negotiate with Barclays as to what the final  
10 terms would be and whether they would be able to  
11 close the deal.  
12 **Q. Why did you say that Barry needed to**  
13 **prepare to give a liquidation view? To whom?**  
14 A. He was going to testify.  
15 **Q. And why did you think that he had to**  
16 **testify about the liquidation view instead of**  
17 **what the mark to market view was?**  
18 A. I think we -- I felt like he had to be  
19 prepared to discuss whether this was a better  
20 alternative than going into Chapter 7 and  
21 liquidating the company.  
22 **Q. Did you speak about that with him or**  
23 **is that an assumption that you had?**  
24 A. I believe I spoke about it with him.  
25 I don't recall the specific conversation, but  
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<p>1 J. Seery</p> <p>2 that certainly would be what I would expect any</p> <p>3 professional talking about a 363 sale of an</p> <p>4 entire company would be able to testify to, if</p> <p>5 so asked by the judge.</p> <p>6 <b>Q. Did you speak specifically with</b></p> <p>7 <b>anybody about whether the number that Lehman was</b></p> <p>8 <b>giving about value should or did reflect a</b></p> <p>9 <b>liquidation quick sale of all the assets? Did</b></p> <p>10 <b>you speak about that subject with anyone?</b></p> <p>11 A. The liquid -- the number that Lehman</p> <p>12 was giving to whom?</p> <p>13 <b>Q. Let me say it -- so strike that.</b></p> <p>14 <b>Did you speak with anybody on the</b></p> <p>15 <b>topic of whether it would be important to have</b></p> <p>16 <b>information about the value if all of the assets</b></p> <p>17 <b>were sold very quickly?</b></p> <p>18 A. Certainly with Barry Ridings, yes.</p> <p>19 <b>Q. And what did Barry Ridings say on that</b></p> <p>20 <b>topic?</b></p> <p>21 A. I need that information.</p> <p>22 <b>Q. And did he say why?</b></p> <p>23 A. I believe he -- I don't recall if he</p> <p>24 said why or not. I presume that he assumed I</p> <p>25 knew.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 <b>Q. And do you remember what exact words</b></p> <p>3 <b>he used?</b></p> <p>4 A. No.</p> <p>5 <b>Q. Did you speak with anybody else about</b></p> <p>6 <b>whether it would be important to have</b></p> <p>7 <b>information about the liquidation value if all</b></p> <p>8 <b>of the assets had to be sold quickly at once?</b></p> <p>9 A. I definitely spoke with Alex about</p> <p>10 that, which is one of the reasons that we</p> <p>11 embarked on this exercise, as I testified</p> <p>12 earlier.</p> <p>13 <b>Q. And what did Alex say on that topic?</b></p> <p>14 A. He would have just said go do what you</p> <p>15 have to do. I don't recall specifically. I</p> <p>16 said this is what we have to do. We have to</p> <p>17 think about what a liquidation would be, to</p> <p>18 think about Barclays' arguments with respect to</p> <p>19 our value, and Barry has to be provided that</p> <p>20 information so he can testify, if asked, about</p> <p>21 the liquidation value.</p> <p>22 <b>Q. Do you remember if that was something</b></p> <p>23 <b>he said or something you said?</b></p> <p>24 A. Something I said.</p> <p>25 <b>Q. And do you remember what specific</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 <b>J. Seery</b></p> <p>2 <b>words you used when you described?</b></p> <p>3 A. No.</p> <p>4 <b>Q. But you believe that you told Alex</b></p> <p>5 <b>Kirk that it would be important to have the</b></p> <p>6 <b>information about the discount value if all the</b></p> <p>7 <b>assets were sold quickly and liquidated at once,</b></p> <p>8 <b>right?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. Okay.</b></p> <p>11 MS. TAGGART: Let's take a little</p> <p>12 break.</p> <p>13 THE VIDEOGRAPHER: This concludes tape</p> <p>14 number 1 of the videotaped deposition of</p> <p>15 James Seery. The time is 10:01 A.M. We're</p> <p>16 now off the record.</p> <p>17 (Recess.)</p> <p>18 THE VIDEOGRAPHER: This begins tape</p> <p>19 number 2 in the videotaped deposition of</p> <p>20 James Seery. The time is 10:07 A.M. We're</p> <p>21 now on the record.</p> <p>22 BY MS. TAGGART:</p> <p>23 <b>Q. Was there a time on September 19 that</b></p> <p>24 <b>you spoke with representatives from the</b></p> <p>25 <b>Committee?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. Was it an in-person or telephone call?</b></p> <p>4 A. The first one was telephonic.</p> <p>5 <b>Q. How many calls or meetings were there</b></p> <p>6 <b>on the morning of September 19?</b></p> <p>7 A. I don't recall if it was still the</p> <p>8 morning, but it was -- this was the meeting in</p> <p>9 Alex's office. I may have said the morning</p> <p>10 earlier. I'm just not really sure exactly the</p> <p>11 time. It was before the hearing. If it was the</p> <p>12 morning, it would have been late morning, and I</p> <p>13 believe there was one call.</p> <p>14 <b>Q. Besides this one call, did you have</b></p> <p>15 <b>any interaction with anyone from the Committee</b></p> <p>16 <b>before the hearing on the 19th?</b></p> <p>17 A. I don't recall specifically.</p> <p>18 Presumably, I would have had to had some other</p> <p>19 call to set up the longer call.</p> <p>20 <b>Q. And was the call with the Committee</b></p> <p>21 <b>after you had this research assignment with the</b></p> <p>22 <b>Lehman traders?</b></p> <p>23 A. I believe so, yes.</p> <p>24 <b>Q. Who else was on the call? Or name all</b></p> <p>25 <b>the people that you know on the call.</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>

**J. Seery**

A. I believe that Sal Burian was on the call for the Committee. I believe that Mike Fazio was on the call for the Committee. I don't recall who else on the other side was on that call. And there were a few other people in the office with me. I just don't specifically recollect who they were right now.

**Q. Do you know if Mark Shapiro was on the call?**

A. I don't believe he was.

**Q. What about Alex Kirk?**

A. He was not.

**Q. Tell me to the best of your recollection, before we look at the notes, what you remember discussing on that call?**

A. The purpose of the call was to walk through with the Committee some of the changes that were required to be made to the deal before we went to court, and it was -- it was a fluid discussion, meaning that while we were having this discussion, there were more changes that were happening.

**Q. When you first got on the call to describe the changes, tell me to the best of**

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**J. Seery**

**your recollection what you described.**

A. Talked about the total size of the deal coming down, where the longs and the shorts in terms of the marked value stood, how much was going to be transferred, and whatever other changes were made to the deal.

**Q. And do you remember what you did say regarding what the marked value as of September 19 of the longs stood?**

A. I believe that it had come down to about \$50 billion.

**Q. And do you remember what you said at least at the beginning of the conversation about how much was being transferred to Barclays?**

A. The entire amount of the longs. The entire amount of the shorts.

**Q. Anything else that you remember when you first described the deal on the call about what you described?**

A. My recollection was that I walked through the categories of assets, which were very broad, more akin to the -- I believe there was a balance sheet, that mini balance sheet attached to the Asset Purchase Agreement, and we  
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**J. Seery**

walked through the changes to each of those broad categories, both in terms of the longs and the shorts.

**Q. Then what changes do you remember taking place while you were on the call?**

A. While I was on the call, there were a number of changes. Some of the asset categories actually in both, I believe both the longs and the shorts, changed, some of the amounts as we were getting the information as to what was coming back and what was traded and what JP wasn't releasing, and then at some point during the call all of the shorts were gone.

**Q. Who was giving you this information while you were on the call?**

A. Alex at some times, and I'm not sure that he was always the guy coming in. He was in another room working with a different set of people on what was going to be available, so I don't think he delivered the message every time. It might have been one of the guys working for me.

**Q. Let's look in the exhibit that you have before you, so that's Exhibit 665, your**

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**J. Seery**

**declaration, and the attached notes. Let's go to the notes that end in the numbers HLHZ38189.**

A. Yes.

**Q. You've reviewed this before?**

A. I have, yes.

**Q. And is it your best recollection that -- is there a part of these notes that you believe corresponds to the part of the conversation where you first described the changes to the deal?**

A. Well, I believe that I've been told that this was described by Mr. Burian as his notes of the deal I was describing and his notes from that call.

**Q. Are there parts of these notes that correspond to your memory of what was told?**

A. Are there parts of -- well, I've described what I said. It looks like that's what he's done here.

**Q. For example, it looks like there's a part, and this is in the crossed out section, that says 50.64B. Does that correspond to anything that you would have conveyed at the beginning part of the call?**

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1 J. Seery

2 A. I don't recall the specific numbers  
3 because I don't have the notes that I had when I  
4 did this call, but that is in the general  
5 category of the positions that we talked about.

6 Q. Was it your belief on September 19  
7 when you were speaking to the Committee that the  
8 value of the assets that were being contemplated  
9 to be transferred were \$50.64 billion?

10 A. That was the long position of the  
11 marked value. Right? That didn't include the  
12 haircut, and that would correspond to the 50 --  
13 lo and behold -- .64 that's on that sheet.

14 Q. So is it your best recollection that  
15 the 50.64 in these notes refers to the marked  
16 position on Lehman's books as of September 19 of  
17 the value of the assets that were contemplated  
18 to be transferred in the Barclays deal at that  
19 time?

20 A. As we started that discussion, that  
21 would -- I believe that's what this reflects.

22 Q. And the 27.4 billion would be the  
23 value of the short position as reflected on  
24 Lehman's books as of September 19; is that  
25 correct?

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1 J. Seery

2 apologize. I looked back on one of the  
3 documents, which is -- which is the one we  
4 talked about with the haircut on it, which has a  
5 Bates number, but it might be too technical, and  
6 that reflects in the crossed out portion the  
7 50.64 that you asked about before.

8 So I don't recall looking at this  
9 document, meaning the one with the haircut  
10 reflected, while I was talking to Mr. Burian,  
11 but those numbers do correspond.

12 Q. And you're referring to, should have  
13 for the record, the Bates number that's  
14 JS-LB-BANKR70? You can see it here.

15 A. Yes. Thank you.

16 Q. Under -- going back to the notes that  
17 are crossed out, it looks like there's a 5B.  
18 Does that correspond to anything that you  
19 believe you conveyed at the beginning of this  
20 call to the Committee?

21 A. I don't know exactly what that is.

22 Q. Then under it says "Total" --

23 A. Estimated.

24 Q. Okay, 45.5B. Does this correspond to  
25 something you conveyed at the time?

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1 J. Seery

2 A. That's right.

3 Q. Then it looks like these notes say  
4 "collateralized repo of Barclays' Fed loan."  
5 Does that correspond to anything that you  
6 believe you conveyed at this time to the  
7 Committee?

8 A. This was the collateralized, you know,  
9 this was the repo that was coming to Barclays of  
10 the Fed loan. Right? So the Fed had gotten out  
11 of it the night before. We went through this  
12 last deposition. Barclays had stepped in, and  
13 then during the day there were additional  
14 changes and at night some additional changes  
15 took place, and what Barclays ended up with was  
16 a marked value of 50.64 and he says they took  
17 all the Fed securities.

18 Q. So that's the marked value of the Fed  
19 securities?

20 A. Yes.

21 Q. Okay. Also, before when you were  
22 saying it's the value of the long position, the  
23 50.64, you said not including the haircut. What  
24 did you mean by that?

25 A. Well, you -- I had looked -- I

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1 J. Seery

2 A. I don't recall the specific  
3 discussion, but I knew about the haircut amount.  
4 It looks to me like we're saying the total  
5 estimated value is around 45 billion,  
6 notwithstanding the marks.

7 Q. And so you're talking about the total  
8 estimated value once you apply the haircut that  
9 your Lehman traders had used to estimate the  
10 discount that would be given to a buyer if they  
11 sold all of those securities at once and at a  
12 liquidated value at a short amount of time, is  
13 that correct?

14 A. That's a little too, as I explained  
15 earlier, that's a little bit too scientific.

16 Q. Okay.

17 A. And 50.64 minus 6 is not 45.5, but  
18 the -- that seems to be within the context, and  
19 that 45.5 is also reflected, and I can't tell  
20 you exactly why, on my -- my notes here.

21 Q. And let me see if I can ask it better,  
22 then. Does the 45.5 here that you conveyed come  
23 from the information that you got from the  
24 Lehman traders regarding the haircut of -- their  
25 estimate of a haircut that would be given to a

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1 **J. Seery**  
2 **buyer if they liquidated all of the securities**  
3 **at a short amount of time?**  
4 A. If "here" means on 70?  
5 **Q. Yes.**  
6 A. Then the answer is what I said  
7 earlier, which is it's not exact. I can't tell  
8 you why it's not exact. I just don't recall  
9 right now. But that does reflect how I would  
10 look at this document in rough numbers.  
11 **Q. And when you say it's not exact, you**  
12 **mean you can't exactly find out the calculation**  
13 **of 45.5 because the haircut that appears on here**  
14 **is 6.04; is that right?**  
15 A. Right. That's correct.  
16 **Q. And you're referring to some of your**  
17 **notes.**  
18 MR. STERN: Do you need a calculator?  
19 MS. TAGGART: We have one if you want.  
20 A. I'm just going to -- go ahead.  
21 **Q. Take your time if you need to do some**  
22 **calculations.**  
23 A. I'm just curious.  
24 (The witness performs a calculation.)  
25 A. No, never mind.  
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1 **J. Seery**  
2 **does that correspond to something that you**  
3 **conveyed to the Committee at this time?**  
4 A. That's the same number as up on the  
5 top.  
6 **Q. Do you know what's million instead of**  
7 **billion?**  
8 A. Well, he -- he did it as MM, right?  
9 Normally, for most of us, that's a million. I  
10 think he probably means million times a million.  
11 **Q. Okay. Looking at these notes -- also,**  
12 **you said that you don't have your notes that you**  
13 **took during the call. Do you still have notes**  
14 **from that call?**  
15 A. I have notes from that call. I don't  
16 know if they were, you know, reflective of  
17 exactly this. What I produced, I can't tell you  
18 whether that was during that discussion or not.  
19 **Q. Why don't you see if -- if any of the**  
20 **notes that are in Exhibit 666 are referring to**  
21 **that call. At the very end there was a fair**  
22 **amount of written notes.**  
23 A. Yes, I don't think so. This one -- I  
24 know where some of these are from, and I don't  
25 think that these are from that call. I think  
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1 J. Seery  
2 **Q. When you were discussing the figure**  
3 **45.5, did you describe at all the process that**  
4 **had been used to arrive at the 45.5?**  
5 A. I don't recall.  
6 **Q. Do you know if you described that it**  
7 **was based on a haircut in any way?**  
8 A. I don't recall the specifics of how  
9 or -- how I discussed the 45.5 reflected in both  
10 Sal's notes and on 070. I just, I don't recall  
11 the specifics of that.  
12 **Q. More generally, is there any time that**  
13 **you, prior to the Sale Hearing, told anybody at**  
14 **the Committee about this process of the Lehman**  
15 **traders gathering information about a potential**  
16 **haircut for this sort of liquidation discount**  
17 **value?**  
18 A. I don't recall right now.  
19 **Q. But also, if you look to the**  
20 **second-to-the-last line on what's crossed out in**  
21 **the notes at HLHZ038189, it seems to say "repo**  
22 **50.6" and I think "MM." Do you know what that**  
23 **refers to?**  
24 A. That would be million. 50.6 million.  
25 **Q. Do you know what repo 50.6 million,**  
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1 J. Seery  
2 these relate to the discussions at Weil on the  
3 following Sunday.  
4 **Q. Have you seen the notes that you took**  
5 **of the call in the last month?**  
6 A. No.  
7 **Q. Do you know --**  
8 A. If I had -- if I had the notes from  
9 the call --  
10 **Q. Yes.**  
11 A. -- I would give them to you. I  
12 haven't seen them.  
13 **Q. Do you know whether they still exist?**  
14 A. I don't know.  
15 **Q. Okay. Okay. Let's go back to those**  
16 **notes of the call that are attached to your**  
17 **declaration as Exhibit 665.**  
18 **Is there any more specifics that you**  
19 **remember about the beginning of your call with**  
20 **the Committee before there's the first set of**  
21 **changes?**  
22 A. It's hard to read all of his -- his  
23 writing. I'm not criticizing it, mine's worse,  
24 but that seems to be reflective of 50.6 of  
25 longs, 27.4 of shorts, 5 billion discount, total  
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1 J. Seery  
2 estimated 45.5 cure payments, 250 goodwill  
3 payment. This is kind of a walk-through of the  
4 deal. Comp and severance. The New Jersey  
5 appraisal. Repo mentioned again. "No"  
6 something "on the portfolio." I can't --

7 **Q. Let's look at that last one. Is it**  
8 **possible -- possibly says "no upside in the**  
9 **portfolio." I don't want you to interpret the**  
10 **notes.**

11 **My question for you is do you remember**  
12 **conveying anything with the general message of**  
13 **there's no upside in the portfolio?**

14 A. Well, I believe there wouldn't be any  
15 upside in the portfolio because, I mean, we  
16 talked about the fact that they were going to  
17 buy the whole thing. Right? So for whatever  
18 they paid -- Barclays, meaning is the "they" --  
19 they were getting all these securities. I must  
20 have, according to these, at least my -- I'm  
21 surmising that I said to them we've got to mark  
22 it 50.6, but there might be a down bid that  
23 would be more like 45.5.

24 And I don't recall specifically. I'd  
25 be really just guessing that Sal would ask -- I  
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1 J. Seery  
2 know what Sal would ask -- what if they're worth  
3 more? The answer is that's to their benefit.  
4 What if they're worth less? That would be  
5 Barclays' loss.

6 **Q. Do you remember if you said there**  
7 **might be a down bid? Do you remember if you**  
8 **said those words?**

9 A. No, I didn't -- I don't remember  
10 saying there might be a down bid. If there was  
11 a liquidation of the assets, this was -- I  
12 assume that's why I came up with the 45.5.

13 **Q. And do you know if -- you also said**  
14 **looking at here it seems to say \$5 billion**  
15 **discount. You don't see the word "discount" in**  
16 **the notes, right?**

17 A. I don't, no.

18 **Q. Do you know if you used the word**  
19 **"discount"?**

20 A. The -- no, I don't recall using the  
21 word "discount." I would have used "this would  
22 be the downside" because there would -- when I  
23 say "discount," I don't mean like a sale  
24 discount. I mean you discount it because that's  
25 what they're actually worth.

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1 J. Seery  
2 **Q. Do you know what you said regarding \$5**  
3 **billion?**

4 A. No, I'm just -- I'm just trying to  
5 figure it out from these notes that this long  
6 market value was not necessarily reflective of  
7 the liquidation value.

8 **Q. Okay. But you don't remember sitting**  
9 **here today what you said at the time on that**  
10 **subject; is that correct?**

11 A. No, but I'm trying to help you out  
12 from -- you're asking me about what I think of  
13 his notes, and I'm giving you my view.

14 **Q. I appreciate that.**

15 **Okay. Did there come a time that you**  
16 **learned that there were more changes to the deal**  
17 **during the conversation?**

18 A. Yes.

19 **Q. Do you remember what you -- first of**  
20 **all, do you remember if you hung up the phone or**  
21 **if you stayed on the phone?**

22 A. Stayed on.

23 **Q. And do you remember what you said to**  
24 **the Committee right when these changes were**  
25 **coming in?**

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1 **J. Seery**

2 A. I remember putting them on hold or  
3 mute, hearing that there were changes, saying  
4 I'll come right back to you, picking them back  
5 up and describing the changes.

6 **Q. Do you remember if you said anything**  
7 **to the effect of "what I told you was wrong" or**  
8 **"disregard that" or "that's not the deal now";**  
9 **do you remember anything along those lines?**

10 A. It would be along those lines. I  
11 don't remember the exact words, but it would  
12 have been the discussion we just had about the  
13 shorts is no longer applicable, they have been  
14 closed out, they can't be delivered.

15 **Q. Okay. So you say -- you put on hold,**  
16 **you think you put him on hold, right?**

17 A. Usually I would use mute.

18 **Q. Okay. Do you know about how many --**  
19 **was it a number of minutes?**

20 A. It was fast.

21 **Q. Okay. Then you come back on, and**  
22 **what's your recollection of what you describe**  
23 **when you come back on the phone?**

24 A. I describe a very similar transaction,  
25 but without the -- without the short positions.

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J. Seery

**Q. And do you remember what, if anything, you said after you get back on the phone about 45.5?**

A. No, I don't remember -- the longs didn't change from -- from our earlier discussion, so the discussion was here's the book that they're buying, it's got longs and shorts in it, and then our view of the value, discussion from Sal why is this a good price, why is this not a good price, what's the risk in it.

Obviously he asked what the upside would be and was told none, and then put him on mute, heard that we were closed out of the shorts so we couldn't deliver those, I assume that Barclays agreed to that, but I didn't really know, and told him that it was basically the same, but everything I had just said about the short positions they would use to hedge that long book was now out so they were going to be long naked.

**Q. When you came back and described the long positions again, did you describe any more information now about where -- how you derived**

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J. Seery

**the value of the long positions?**

MR. STERN: Objection to the form.

A. Not -- not that I recall. No different from the prior -- I don't remember going -- my recollection is that we didn't go back over the longs and the, you know, any real discussion about them. It was, you know, okay, that -- that changed in terms of the shorts. So when we said about the longs, that still holds, let's go back to how the deal is now revised to reflect these changes.

**Q. Do you remember if when you came back from after putting them on mute you discussed the number 50.64 anymore?**

A. I don't recall.

**Q. And do you remember if after you put on mute you discussed \$5 billion at all?**

A. Do I remember -- no, we discussed -- obviously we discussed it earlier and it's reflected, you know, in his notes, but I don't recall specifically whether the second part of the discussion, you know, we revisited that point.

**Q. About six lines down on the notes, Mr.**

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J. Seery

**Burian's notes, that appear at 38190, it looks like there's an indication of losing the upside in the portfolio. Did you convey anything to the Committee on that topic?**

A. Can you repeat that? I didn't -- I just wasn't listening.

**Q. If you look on the sixth line, I think it says "losing the upside in the portfolio." Did you convey anything to the Committee on that topic after you put them on mute and came back?**

A. I don't recall specifically, but that's sort of the same thing he wrote on the other one, slightly different in words.

**Q. Okay. There's also, if you look kind of in the middle of the page at Mr. Burian's notes, it has the number 47.4. Did you discuss the number 47.4?**

A. I don't recollect right now the 47.4. I think that was part of -- I don't know if it was at this exact time or if there was, you know, a further break in the call that, you know, some of these may have shifted even further, these numbers.

**Q. Do you know how 47.4 was derived?**

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J. Seery

A. I don't recollect right now. That is a number that I have seen in lots of notes.

**Q. At the bottom of this page it says "no residential mortgages." Did you discuss anything on that topic with the Committee?**

A. I'm sure I did. I just don't recall the specifics of -- of the resi discussion.

**Q. Even generally, do you remember any more that you described about residential mortgages to the Committee on this call of September 19?**

A. No, I don't recall specifically.

**Q. If you turn over to the next page of Mr. Burian's notes, so that would be Exhibit 665 at 38191, was there a time on the call that you gave out specifically a list of what had started in the deal and then the changes in the deal at a later part of the call?**

MR. STERN: Counsel, are you suggesting that these notes are a reflexion of the call with Mr. Seery?

MS. TAGGART: That is what I'm asking.

A. I don't really know whether these are contemporaneous or not. This looks like a

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1 J. Seery  
2 summary. These are certainly -- this is  
3 certainly information that I could have  
4 discussed with him. This is also information  
5 that Sal would have had so he could have derived  
6 this himself.

7 I just don't -- this doesn't have the  
8 same, and I can't tell you why, what I'd say  
9 dynamic nature of scribbling. This looks more  
10 organized than that call was.

11 **Q. Do you remember if there was a time**  
12 **where Mr. Burian said anything to the effect of**  
13 **just one more time could you just go through**  
14 **what the deal used to be and the deal is now?**

15 MR. STERN: Objection to the form.

16 A. I don't, I don't recollect. Certainly  
17 that would have been the kinds of things we  
18 would have done in a pretty fast nature.

19 **Q. At the bottom of these notes on 38191,**  
20 **I believe it says, "Over-the-counter derivatives**  
21 **are not being taken." Does that correspond to**  
22 **anything, message that you conveyed to the**  
23 **Committee?**

24 MR. STERN: Objection to the form.

25 A. I don't recollect, but I don't think  
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1 J. Seery  
2 that OTC derivatives did trade. I don't recall,  
3 but I didn't think that they did.

4 **Q. Do you remember if you said anything**  
5 **to the Committee on the question of**  
6 **over-the-counter derivatives?**

7 A. That well could have been part of our  
8 discussions at, you know, in that -- in that  
9 call. I just don't recall the specifics.

10 **Q. Was it your understanding as of**  
11 **September 19 that over-the-counter derivatives**  
12 **were not going to be taken by Barclays?**

13 A. My recollection is that they weren't  
14 supposed to go because it was just hard to move  
15 them.

16 **Q. Let's go back to the declaration part**  
17 **of your declaration, so still 665, and I want to**  
18 **ask you about a couple lines. In paragraph 5,**  
19 **the last sentence again says, "The notes**  
20 **refreshed my recollection that I was very clear**  
21 **in explaining that there was a \$5 billion**  
22 **difference between the marked value of the**  
23 **assets and the Fed repo (which I believe was**  
24 **\$50.6 billion) and the amount advanced in the**  
25 **Fed repo to purchase those assets (which I**

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1 J. Seery  
2 believe was \$45.5 billion)."

3 A. Yes.

4 **Q. Can you tell me, first of all, was --**  
5 **what exactly did you convey to the Committee on**  
6 **that topic?**

7 A. That -- I think I -- I thought we just  
8 went through that, but that there was a \$50.6  
9 billion market value and that the amount  
10 advanced was less than -- was certainly much  
11 less than the market value of those -- those --  
12 the marked value of those securities.

13 **Q. Was that your understanding on**  
14 **September 19, that the Fed repo had a marked**  
15 **value of \$50.6 billion?**

16 A. Yes.

17 **Q. And was it your understanding that**  
18 **that was \$5 billion different from the amount**  
19 **advanced for the Fed repo to purchase the**  
20 **assets?**

21 A. Yes.

22 **Q. Was that information conveyed before**  
23 **you put the Committee on hold and then came back**  
24 **and said that part of the deal had changed?**

25 A. I believe so. That was always part of  
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1 J. Seery  
2 the structure.

3 **Q. When you say you were very clear in**  
4 **explaining, what makes you think -- say "very**  
5 **clear"?**

6 A. He's got a space in his notes and he's  
7 got "5 billion" written there all by itself. It  
8 doesn't look like a little scribble that he just  
9 stumbled upon.

10 **Q. Separate from the notes, is there any**  
11 **independent recollection that you have that**  
12 **makes you think you were very clear in**  
13 **explaining that there was a \$5 billion**  
14 **difference between the marked value of the**  
15 **assets in the Fed repo and the amount being**  
16 **paid?**

17 A. We had, and some of them are  
18 subsequent discussions, we had a number of  
19 discussions with the Committee, some of which I  
20 remember very specifically, about the fact that  
21 Barclays was going to get securities with a face  
22 value, marked face value, in excess of the  
23 amounts that they had advanced against those  
24 positions.

25 **Q. Was that -- did you say anything more**  
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**J. Seery**  
**on the topic than you've testified before the**  
**hearing on that topic?**

MR. STERN: Objection to the form.

A. Did I say --

**Q. You said you had a number of**  
**discussions with the Committee. Any before the**  
**September 19 hearing besides what we just talked**  
**about?**

A. We had another discussion before this  
call generally describing the deal and how it  
would work in the board room at Lehman, and I  
don't -- I don't recall the specifics, but that  
was part of the trade.

**Q. Who from the Committee was part of**  
**that meeting?**

A. Sal. Tanya, whose last name escapes  
me. I don't recall if Brad Gear was there or  
not.

**Q. And what do you remember being said**  
**about the value of the Fed repo assets at that**  
**meeting?**

A. I don't remember the specifics of  
discussing the Fed repo assets at that time, but  
you said if I had any recollection, I believe

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J. Seery

that was part of our discussion. I don't recall  
the specifics.

**Q. And anything generally about the value**  
**of the assets that were being conveyed as part**  
**of taking over the Fed repo?**

A. Other than what I've already told you?

**Q. But now I'm moving to, it sounds like**  
**there was a prior discussion in the board room?**

A. Right.

**Q. And you said that you had discussed**  
**some issues related to this. I want to know**  
**what do you remember discussing about the value**  
**of the assets being conveyed.**

A. I don't recall specific discussion  
about the value of the assets conveyed, just  
about the overall deal.

**Q. And what about, what, if anything, was**  
**discussed on the question of \$5 billion in any**  
**way?**

A. At that --

**Q. At the early --**

A. I don't have a specific discussion of  
values at that meeting.

**Q. Okay. And was that meeting before or**

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**J. Seery**  
**after this investigation of the Lehman traders?**

A. Before.

**Q. Okay. Then in paragraph 6 you say, "I**  
**understand that a Committee representative**  
**testified that he crossed out the notes**  
**reflecting the original information describing**  
**the repo because I told him the information and**  
**structure of the repo portion of the sale**  
**transaction had changed."**

**Did you tell Mr. Burian that the**  
**information and structure of the repo portion of**  
**the sale transaction had changed?**

A. Let me just see.

Yes, with respect to the short  
positions, yes.

**Q. And then you say, you write in your**  
**declaration at 6, paragraph 6, "My recollection**  
**is that the primary information that had changed**  
**was that Lehman's short positions had been**  
**closed out and that the estimated actual value**  
**of the Fed repo securities, as opposed to their**  
**marked value, had fallen to approximately \$45.5**  
**billion."**

**When you came back to describe the**

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**J. Seery**  
**change of the deal, did you describe this**  
**difference between actual value and marked**  
**value?**

A. I think we talked about that  
difference, you know, more clearly in the  
beginning part of the discussion, and the second  
part of the discussion was with respect to  
the -- was more focused on the fact that the  
shorts were closed out.

**Q. What do you mean by "marked value"?**

A. The marked value on our books which we  
talked about with respect to 0070.

**Q. So you mean the marked to market value**  
**that was on Lehman's books as of September 19?**

A. Yes.

**Q. What do you mean by "actual value"?**

A. What you could receive if you went and  
sold them.

**Q. So when you refer to the "estimated**  
**actual value," you mean the value that your**  
**Lehman traders had estimated --**

A. The liquidation bid.

**Q. The liquidation if all of the**  
**securities were sold very -- liquidated very**

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J. Seery

quickly by one buyer, right?

A. No, not by one buyer.

**Q. What was -- you mean the discount that would have to be given to a buyer if they liquidated all of the securities quickly?**

A. It doesn't mean you have to find one buyer to buy all the securities.

**Q. Fair enough. Maybe you better just say it in your own words then. What did you believe was reflected by the "estimated actual value," as you described here, that corresponded to \$45.5 billion?**

A. I already said that that would be the amount that we would be -- the discount that would be required to have to sell those securities in a relatively swift manner of time considering the market conditions at the time.

**Q. Do you think that you described --**

A. My best --

**Q. -- that definition --**

A. I was just going to finish.

My belief would be if you were to find one buyer, the discount would be a lot bigger than that, much bigger than is reflected on this

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J. Seery

sheet. It's just not a lot of people who could show up with 50.6 billion, and in fact, the facts bear that out because no one else showed up with 50.6 billion, or anything close.

**Q. Fair enough. You mean that -- you mean this wasn't if there was just one buyer, he was going to buy all \$50.6 billion?**

A. Correct. Or any one category.

**Q. And maybe, I mean -- the amount if one seller sells all of the --**

A. Correct.

**Q. -- secured -- securities at a quick rate?**

A. Correct.

**Q. Okay. Did you describe to the Committee that definition of what you're calling here is the actual value that corresponds to \$45.5 billion?**

A. I don't have a recollection of the specific words and how that discussion evolved, but my general recollection is that we talked about the fact that the markets were where they were and that if we were going to try to liquidate these assets, we would end up with a

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lower amount than our marked value.

**Q. Do you remember what, if anything, anyone at the Committee said on that topic, responded to that information?**

A. Not a very specific challenge. There wasn't -- there wasn't a real argument about it. I think it was almost axiomatic to them at the time that, you know, if you tried to move this quantity of securities into that market, you would have had to take a discount.

**Q. Then you say, "However, I consistently stressed to Committee representatives that the \$5 billion difference between the advanced amount and the marked amount of securities remained."**

**What do you mean by "consistently stressed"?**

A. This is what I referred to just a few minutes ago when we were talking there were a number of conversations where we talked about the fact that the amount advanced under the repo was less than the face amount or marked amount of the positions.

So, you know, if you were able to

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achieve the full marked amount, Barclays was buying those securities at a significant discount.

**Q. Do you think that you used the words that Barclays was buying these securities at a discount?**

A. I don't recall. I mean, that's -- that's pretty typical nomenclature. It wasn't set up as a discount. The fact of the matter was that they advanced less than the market value of those securities.

If the securities were worth less than they were marked, then the difference would be smaller. If they were worth more, then the difference would be greater. But the Committee was very aware, and we had specific discussions that I recall, that this difference existed and it was part of the deal.

**Q. Okay. Is there anything more on September 19 that you remember discussing about this \$5 billion difference between the marked and the advanced amount to the Committee that we haven't talked about before?**

MR. STERN: Objection to the form.

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A. Certain -- that's all from this call, for sure.

**Q. Okay. Since you say that there's a number of times, what other times, besides this call that we've discussed, did you tell the Committee that Barclays was paying less than the marked amount of the positions?**

A. I had discussions, and I don't recall the specific conversations, but I do recall generally discussions at the court about the deal with Committee advisors, which would include counsel as well as I believe Houlihan, though I don't -- since I had this with other one on the phone with Sal, I don't recall that as specifically -- generally discussing the deal.

It was not a secret that we felt from a seller's perspective that this was a great deal for Barclays and that they were buying the franchise and the securities for a very good price.

**Q. At the courthouse did you discuss this issue of how Barclays was purchasing securities for \$5 billion less than their marked amount?**

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A. I don't recall the specifics of that discussion.

**Q. Tell me any other time besides that call that that topic is mentioned, that you told the Committee that there's a \$5 billion difference between what Barclays is paying and the marked amount of the securities?**

A. On the 21st, on Sunday, we had a very specific discussion regarding a number of issues related to the transaction, including the difference between -- I don't remember if we talked about a specific dollar amount, but including the difference between the amount that was being advanced and the marked value of the securities in the repo.

**Q. What specifically -- first, who did you speak with at the Committee about this difference between what Barclays was paying and the marked amount of the securities?**

A. Mr. Burian and Mr. Fazio for sure were there. I don't recall who else was there.

**Q. What did you say about what was the value of the securities that were being transferred as part of the deal?**

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A. My estimates of the numbers wouldn't have changed. I don't recall the specific language discussed in terms of the value. I do recall very specifically that I was asked by either Mr. Fazio or Mr. Burian why are we doing this deal and I was also asked -- or, the statement was, "We know this is not a great deal. Just tell us it's not that bad."

**Q. What do you remember saying about the difference between the amount that Barclays was paying and the value of the securities?**

A. My recollection is that we consistently discussed the fact that the amount advanced was considerably less than the marked value and, you know, whether that marked value was correct or not, if you had to liquidate, was one question, or whether you would, if you held it over time, you would do well or do worse. And that was, you know, up to the buyer and how they would deal with that, but we specifically and consistently talked about that large difference.

**Q. Let me show you a document that's already been marked 461B, and --**

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MR. STERN: This I don't believe is a complete document. There's a lengthy spreadsheet in this exhibit, so this is -- this is only a portion of the exhibit.

MS. TAGGART: Then let's mark this as a different exhibit so that we have it. So let's mark this 667 what goes from HLHZ11913 -- actually, then there's no Bates numbers on the last two. And the front one is marked with an Exhibit 461B, but we're going to refer to this now as Exhibit 667.

(Exhibit 667, a document bearing Bates Nos. HLHZ0011913 with attachment, marked for identification, as of this date.)

**Q. My question is if you recognize the chart that is on the third page of this exhibit?**

A. I don't have any specific recollection of those six or seven lines.

**Q. Do you remember anyone from the Committee presenting you with a document that had a number that listed a total under market value of \$49.9 billion, or around that?**

A. I don't recollect that, no.

**Q. Do you remember if you ever used the**

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1 **J. Seery**  
2 **word "stale marks" when you talked to the**  
3 **Committee?**

4 MR. STERN: Objection to the form.

5 A. I don't recall.

6 **Q. Did you say that -- what did you say**  
7 **were the current Lehman marks for the amount of**  
8 **securities that were being transferred?**

9 A. When?

10 **Q. When you spoke with Committee**  
11 **representatives on September 21.**

12 A. My recollection is that they had come  
13 from the 50.6 and had moved down below that. I  
14 don't remember the exact number. I would have  
15 to check my notes.

16 **Q. Did you convey either way whether the**  
17 **Lehman marks were accurate?**

18 A. Not that I recall, other than the  
19 previous discussion with respect to liquidation.

20 **Q. When, on September 21st, Committee**  
21 **representatives came and discussed with you an**  
22 **issue about the difference between the amount**  
23 **being paid and a marked value, what specifically**  
24 **did you say about why there was that difference?**

25 MR. STERN: Objection to the form.

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1 J. Seery

2 A. The very specific thing I do recall  
3 saying is that is the deal and that is the only  
4 deal and our options are to take this deal or  
5 liquidate the company and these assets.

6 MR. STERN: I think we're covering  
7 ground that was covered in his initial  
8 deposition. I just want to note that for  
9 the record.

10 **Q. Is there any other time that you**  
11 **believe that you told the Committee that**  
12 **Barclays was buying securities for substantially**  
13 **less than the marked value?**

14 A. Other than the times that I have just  
15 discussed?

16 **Q. Yes.**

17 A. I don't recall any other right now.

18 **Q. Okay. We might get back to that but**  
19 **let's go back to your declaration for now.**

20 A. I want to ask you something.

21 **Q. Yes.**

22 A. Because you showed me a document. Is  
23 this something I was supposed to have seen?

24 **Q. I believe that this is the summary**  
25 **sheet of what is a large -- that are very large**

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1 **J. Seery**  
2 **spreadsheets that were circulated to the**  
3 **Committee at least on September 21st, and we'll**  
4 **do our best to see if we can get the**  
5 **spreadsheets in their full forms that you might**  
6 **remember better.**

7 A. Okay.

8 MR. STERN: There was a complete  
9 spreadsheet listing each and every security  
10 that had been transferred to Barclays as a  
11 part of the repo and this was at Weil.

12 THE WITNESS: Okay. I certainly --

13 MS. TAGGART: I'm not sure I agree  
14 with that description of it.

15 A. -- received lots of documents and lots  
16 of spreadsheets at Weil.

17 MR. STERN: What part of that don't  
18 you agree with?

19 MS. TAGGART: I don't think that they  
20 said -- I don't want to discuss it in front  
21 of the witness. You and I can discuss later  
22 why I don't think that's accurate.

23 **Q. Let's turn back to September 19th and**  
24 **your declaration. After you say, "I**  
25 **consistently stressed to Committee**

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1 **J. Seery**  
2 **representatives that the \$5 billion difference**  
3 **between the advanced amount and the marked**  
4 **amount of securities remained," you say, "That**  
5 **was the primary reason for my conversations with**  
6 **them at the time."**

7 **What do you mean? What was the**  
8 **primary reason?**

9 A. The primary reason of that call was to  
10 go through the changes in the deal and to make  
11 sure they were aware of them before we went into  
12 court.

13 **Q. You're not saying that the primary**  
14 **reason that you talked to the Committee was to**  
15 **tell them that Barclays was paying \$5 billion**  
16 **less than --**

17 A. No, the primary reason --

18 MR. STERN: Wait. Wait. She didn't  
19 finish the question.

20 Did you finish your question?

21 MS. TAGGART: I can reask it.

22 **Q. You're not saying that the primary**  
23 **reason for your conversations with the Committee**  
24 **was to tell them that there was a \$5 billion**  
25 **difference between the advanced amount and the**

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**marked value of the securities, are you?**

MR. STERN: You can answer.

A. No, the primary reason for my conversation was to explain -- was -- was -- maybe I didn't do this as artfully as I should have. The whole sequence on the top, we're explaining the changes and had to walk them through this transaction and why these changes had been made.

Obviously, it was dynamic, as Sal's notes reflect, and the call -- on the call it changed even more, but I had to explain it to them before the hearing so that we would have the best chance of getting this deal done, and I felt compelled to tell them about these changes and emphasize that this was the transaction that we could get done and there was no other transaction.

**Q. Let's look on page 3 of your declaration, paragraph 7. It says, "The notes also refreshed my recollection that Lehman traders independently assessed the value of the repo collateral under the stressed market circumstances at that time and the assets that**

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**J. Seery**

**went to Barclays when Barclays replaced the repo."**

**And are you referring in that sentence to the project that Lehman traders undertook earlier that day at your direction?**

A. Yes.

MR. STERN: Just take your time and read paragraph 7.

(Document review.)

A. Okay. I'm sorry, your question was?

MS. TAGGART: Can you read it back?

MR. STERN: I think you answered the question. I just wanted you to read the whole paragraph.

**Q. So are you referring here to the assessment or estimate that Lehman traders made regarding their view as to the liquidation bid of the assets if you sold to the full size and what discount would have to go to buyers?**

MR. STERN: Objection to the form.

A. I don't understand your question.

**Q. When you -- maybe you can tell me. What was your understanding of the information they were conveying, the Lehman traders, about**

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**J. Seery**

**the value of the Fed repo collateral that you're referring to here in paragraph 7?**

A. Right. I think I gave that a whole bunch of times, but when I saw Burian's notes, it reminded me that we had, meaning Lehman, had undertaken to assess what the actual value was, and I don't think I had recollected that exercise that we have gone and described this morning, and so my testimony I've already given as to what that exercise was.

**Q. And when, again, when you refer to actual value, you're talking about an estimate of what the value would be if all of those securities were liquidated at a --**

A. Liquidation.

**Q. Quickly and at once?**

A. Yes, a swift liquidation. I don't think we set up specific parameters.

**Q. Two sentences later you say, "The Lehman traders indicated that the market value of the Fed repo collateral was closer to \$45.5 billion than the marked value of \$50.6 billion."**

**And what do you mean here by "market value"?**

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**J. Seery**

A. The liquidation value. The amount you would get if you sold it in the market.

**Q. Sold all the securities at once quickly in the market, correct?**

A. Sold them in a swift fashion. I don't think I ever said sold them all at once. We didn't set up parameters to say, you know, you got two hours to sell these, or bid, wanted and comp. We didn't do it that way.

**Q. It's the liquidation bid of the assets if you sold it at a full size, including the discount that would be given to buyers, right?**

MR. STERN: Objection to the form.

A. The -- it would be the required discount to move the full size to many buyers over a relatively swift period of time.

**Q. Okay. Let's go to Exhibit 666, which has a number of your notes, and I want to ask you about a few more of the pages that are in those notes. Let's go to what ends in 66.**

A. I just happen to be looking at it.

**Q. Are these your notes?**

A. They are.

**Q. When did you take them?**

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<p>1 <b>J. Seery</b></p> <p>2 A. I took them on Sunday, the 21st.</p> <p>3 <b>Q. And were you speaking with someone at</b></p> <p>4 <b>the time that you took them?</b></p> <p>5 A. I don't believe I was. I think I</p> <p>6 was -- I was listening.</p> <p>7 <b>Q. Whom were you listening to?</b></p> <p>8 A. It was a room full of JPMorgan -- I</p> <p>9 believe this is when I took them -- JPMorgan,</p> <p>10 Barclays, Committee personnel and professionals.</p> <p>11 <b>Q. Are you sure that Committee personnel</b></p> <p>12 <b>were part of it?</b></p> <p>13 A. I'm positive.</p> <p>14 <b>Q. Who?</b></p> <p>15 A. Sal and Fazio.</p> <p>16 <b>Q. And about what part of the day of</b></p> <p>17 <b>September 21st?</b></p> <p>18 A. I believe this was late afternoon to</p> <p>19 evening. Afternoon, and it may not have been</p> <p>20 late afternoon.</p> <p>21 <b>Q. Who was conveying the information that</b></p> <p>22 <b>you were writing down?</b></p> <p>23 A. I don't specifically recollect. The</p> <p>24 reason I think this was from the large</p> <p>25 conference we had is that I had forgotten Pat</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 Daniello's name and it just popped into my head</p> <p>3 and so I wrote it down. He was there as a</p> <p>4 JPMorgan restructuring workout guy.</p> <p>5 <b>Q. Okay. See if you can take through --</b></p> <p>6 <b>can you read for me what is the number on the</b></p> <p>7 <b>left-hand side of the first number that seems to</b></p> <p>8 <b>start with 4?</b></p> <p>9 A. 4.235.</p> <p>10 <b>Q. Do you know what that corresponds to?</b></p> <p>11 A. Off the top of my head, no.</p> <p>12 <b>Q. I guess first read all the numbers</b></p> <p>13 <b>that go down to 7, and then I'm going to ask you</b></p> <p>14 <b>if you understand what any of that is referring</b></p> <p>15 <b>to?</b></p> <p>16 A. 28.4, 10.1, 4. -- about 42.7, 7</p> <p>17 billion cash, 1.9, 44.6.</p> <p>18 <b>Q. Do you know what any of those numbers</b></p> <p>19 <b>refer to?</b></p> <p>20 A. I don't know specifically. I know</p> <p>21 that what I believe them to refer to are asset</p> <p>22 values in the repo.</p> <p>23 <b>Q. And when you refer to asset values, do</b></p> <p>24 <b>you mean their marked value as on Lehman's</b></p> <p>25 <b>books?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 <b>J. Seery</b></p> <p>2 A. Yes, marked.</p> <p>3 <b>Q. And do you know what 44.6 then</b></p> <p>4 <b>represents?</b></p> <p>5 A. I'm maybe going out on a limb here,</p> <p>6 but I think that's 42.7 plus 1.9.</p> <p>7 <b>Q. Do you know what 42.7 represented?</b></p> <p>8 A. That would be the sum of the numbers</p> <p>9 above it.</p> <p>10 <b>Q. Do you know if 42.7 corresponds in any</b></p> <p>11 <b>way to what the value on Lehman's books was of</b></p> <p>12 <b>collateral that was going over to Barclays?</b></p> <p>13 A. This was a discussion of what they</p> <p>14 were actually getting overnight and what they</p> <p>15 had received, so it may be slightly different</p> <p>16 from some of the other numbers we had in the Fed</p> <p>17 facility and we thought were being moved. So</p> <p>18 this is -- I don't know if this is what Barclays</p> <p>19 said it was -- had received or what JP said it</p> <p>20 had delivered.</p> <p>21 <b>Q. But was it your understanding on</b></p> <p>22 <b>September 21st that Barclays had received</b></p> <p>23 <b>securities that had a marked to market value at</b></p> <p>24 <b>that time of \$42.7 billion?</b></p> <p>25 A. It was my understanding that -- well,</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 from these -- no, I don't recall specifically.</p> <p>3 My notes reflect that someone at this meeting</p> <p>4 said that that's what they got.</p> <p>5 <b>Q. And you don't remember who said that?</b></p> <p>6 A. I don't recall.</p> <p>7 <b>Q. Do you know what the 7 billion cash</b></p> <p>8 <b>referred to?</b></p> <p>9 A. The 7 billion cash was a dispute</p> <p>10 related to the Racers and cash that was, from</p> <p>11 JP's perspective, supposed to be advanced to it</p> <p>12 in exchange for these other securities.</p> <p>13 <b>Q. Do you know what 1.9 corresponded to?</b></p> <p>14 A. I used to. I don't recall right now.</p> <p>15 MR. STERN: You said JP's perspective.</p> <p>16 THE WITNESS: Yes, JP's perspective,</p> <p>17 yes.</p> <p>18 I don't recall the 1.9 right now.</p> <p>19 <b>Q. And do you know what the 44.6 then</b></p> <p>20 <b>refers to?</b></p> <p>21 A. Well, it's the sum of those 42.7</p> <p>22 securities and the 1.9. I just don't remember</p> <p>23 what the 1.9 is right now.</p> <p>24 <b>Q. Do you know if the 44.6 was the marked</b></p> <p>25 <b>to market value of the securities that Barclays</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>

<p style="text-align: right;">Page 344</p> <p>1 <b>J. Seery</b> 2 <b>was receiving under the deal?</b> 3 A. I don't really remember, but if you 4 look on the next page, then you get -- you get 5 some -- a little bit of light shed on that. 6 <b>Q. Yes, what part of the next page sheds</b> 7 <b>light?</b> 8 A. It's a little bit more detailed. It's 9 the same, roughly the same numbers with some 10 explanation as to what they are. 11 <b>Q. Could you walk through your notes on</b> 12 <b>67 to read out and explain what is being</b> 13 <b>conveyed?</b> 14 A. Sure. What I've written is 28.5, and 15 that is a category which I've written down as 16 being largely Fannie, Freddie, Farm Credit, 17 Ginnie, U.S. Treasury, Federal Home Loan Bank. 18 Those would be the types of securities that were 19 in that \$28.5 billion number. 20 The 4.235 is corps, mixed, a lot of 21 the structured stuff. It says "lot of," a lot 22 of structure. That's what I would have meant, 23 structured to credit securities. 10.2 is listed 24 as corps, munis, majority of which is high 25 grade, and then 42.9 being the sum of those TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 345</p> <p>1 J. Seery 2 numbers and it says "securities at Barclays." 3 <b>Q. Does that, after reading that, do you</b> 4 <b>understand now what 42.935 represented?</b> 5 A. Yes, the numbers are slightly 6 different and I'm sure this is just a further 7 reflection. These notes came out of the same 8 notebook from the same meeting, so they are just 9 a reflection of more detail around some of these 10 securities. I don't know who conveyed that 11 information to me. 12 And then it shows the 7 billion of 13 cash at JP in Barclays, which means it was 14 supposed to be in a Barclays account and 15 apparently wasn't. 16 <b>Q. What does "8.55 security" refer to?</b> 17 A. I believe that was the Racers, that's 18 my recollection, and what they expected to get 19 was that security -- or, what JP expected to get 20 was 7 billion in exchange for those securities, 21 and Barclays didn't take them. 22 <b>Q. Okay. There's some percentages that</b> 23 <b>are on the left. Can you describe what those</b> 24 <b>are?</b> 25 A. I'm assuming that those are TSG Reporting - Worldwide 877-702-9580</p>
<p style="text-align: right;">Page 346</p> <p>1 J. Seery 2 percentages of the total. 3 <b>Q. The percentages that are allocated to</b> 4 <b>that category out of the total of what was</b> 5 <b>conveyed to Barclays?</b> 6 A. Yes. 7 <b>Q. And then on the upper right it says</b> 8 <b>"marks," and there's some indications under</b> 9 <b>that. Do you know what that's referring to?</b> 10 A. It looks -- I don't know for sure. It 11 looks like a rough, quick haircut, and I'm not 12 sure if I'm making that haircut up or taking it 13 from the percentages that I received that we 14 discussed in 0070 or if I got that from 15 somewhere else. I just don't recall. 16 <b>Q. And what do you mean in this context</b> 17 <b>about a haircut?</b> 18 A. Meaning that this would be an 19 additional mark against that market value to 20 reflect a haircut. 21 <b>Q. So would you add that amount to come</b> 22 <b>up with the mark or would you take that down to</b> 23 <b>reflect the haircut for this liquidated value?</b> 24 A. You would take that down to reflect 25 the haircut for the liquidated value. TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 347</p> <p>1 J. Seery 2 <b>Q. What about up at the top? Start on</b> 3 <b>the left. It says 45.53 and I think 84.9 to 91</b> 4 <b>percent? Did I read that right?</b> 5 A. It says 8 -- I think that says 84.91. 6 <b>Q. What is that referring to?</b> 7 A. I don't have a calculator in front me, 8 but somebody divide 45 by 53 and you might come 9 up with a number somewhere in that neighborhood. 10 <b>Q. Do you know what the 45 is referring</b> 11 <b>to or the 53 is referring to?</b> 12 A. My recollection is this would be 13 advanced amounts, and this is my own scribbling, 14 of amounts advanced versus market marked value 15 of the securities, and I don't -- I just don't 16 know why that one is 53 and why the other one is 17 46. 18 <b>Q. Meaning that as of September 21st it</b> 19 <b>was your understanding there was an advanced</b> 20 <b>amount of 45 billion against securities that had</b> 21 <b>a marked value of \$53 billion?</b> 22 MR. STERN: Objection to the form. 23 A. No. No. These are, you know, really 24 these are just quick scribbling notes to think 25 about what the percentage advanced against the TSG Reporting - Worldwide 877-702-9580</p>



<p style="text-align: right;">Page 348</p> <p>1 J. Seery</p> <p>2 whole was, and I don't know why I have 53 versus</p> <p>3 46. And as to -- in terms of the whole, 38 I'm</p> <p>4 just going to surmise is 45 advanced minus 7 of</p> <p>5 cash. If they were fully protected in the cash,</p> <p>6 then that would be the advanced amount against</p> <p>7 that.</p> <p>8 <b>Q. By some calculation, though, the</b></p> <p>9 <b>number on the right, whether it's the 53 or the</b></p> <p>10 <b>46, refers to in billions of dollars the marked</b></p> <p>11 <b>value of the securities that Barclays was</b></p> <p>12 <b>receiving; is that your understanding?</b></p> <p>13 MR. STERN: Objection to the form.</p> <p>14 A. My understanding, yes, my -- again,</p> <p>15 these are quick notes that I don't really</p> <p>16 have -- I haven't focused on, I really don't</p> <p>17 remember, so I can't tell you why there's</p> <p>18 differences, but 45 over 53 is advanced amount</p> <p>19 versus marked amount. 38 over 64.6 is advanced</p> <p>20 amount over marked amount without the 7 billion</p> <p>21 of cash.</p> <p>22 <b>Q. Okay. On the left-hand column below</b></p> <p>23 <b>the percentages, you have I think "49BN face</b></p> <p>24 <b>MV." What does that refer to?</b></p> <p>25 A. That's just my calculation of 42 plus</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 349</p> <p>1 J. Seery</p> <p>2 7.</p> <p>3 <b>Q. What did you mean by "face MV"?</b></p> <p>4 A. Market value. So that's the marked</p> <p>5 value of what we had, you know, in our books.</p> <p>6 It's not face of the securities. Face of the</p> <p>7 securities normally is referred to as the amount</p> <p>8 that is actually reflected on the -- on the --</p> <p>9 on the debenture or on any note. I'm talking</p> <p>10 about what the face, meaning what Lehman's mark</p> <p>11 is, not what it might be liquidated for.</p> <p>12 <b>Q. Meaning what Lehman's mark is for the</b></p> <p>13 <b>securities that are being conveyed to Barclays</b></p> <p>14 <b>in the deal?</b></p> <p>15 A. Yes. Yes.</p> <p>16 <b>Q. Then there's a line that says "43.5BN</b></p> <p>17 <b>value adjusted MV." What does that refer to?</b></p> <p>18 A. That's an adjusted market value of</p> <p>19 that 49 billion. I don't know where that comes</p> <p>20 from.</p> <p>21 <b>Q. Do you know what "adjusted market</b></p> <p>22 <b>value" means?</b></p> <p>23 A. Well, normally I would think of</p> <p>24 "adjusted" as meaning the haircut, so an</p> <p>25 additional haircut against that. I can't -- I</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
<p style="text-align: right;">Page 350</p> <p>1 J. Seery</p> <p>2 just don't recall where that -- where that</p> <p>3 number came from.</p> <p>4 <b>Q. So you mean that 43.5 billion is</b></p> <p>5 <b>conveying the value that includes the haircut</b></p> <p>6 <b>that would come from the liquidation value of</b></p> <p>7 <b>the securities that would be transferred to</b></p> <p>8 <b>Barclays?</b></p> <p>9 A. I think so, yes.</p> <p>10 <b>Q. And "45.0 advanced," is that the</b></p> <p>11 <b>amount advanced for those securities?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. And I think you might have answered,</b></p> <p>14 <b>but do you know who gave you information that</b></p> <p>15 <b>the adjusted or liquidation value of those</b></p> <p>16 <b>securities of \$43.5 billion?</b></p> <p>17 A. I don't recall if that is, you know,</p> <p>18 Barclays' position, meaning, you know, their</p> <p>19 argument as to why they're worth less than the</p> <p>20 marked value, or if that was somehow reflective</p> <p>21 of the work we had done on Friday showing a</p> <p>22 liquidation haircut. I just don't remember.</p> <p>23 <b>Q. Under that it says "1.9 billion DTC</b></p> <p>24 <b>unencumbered"?</b></p> <p>25 A. "Plus BONY."</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p style="text-align: right;">Page 351</p> <p>1 J. Seery</p> <p>2 <b>Q. Do you know what refers to?</b></p> <p>3 A. There were \$1.9 billion of securities,</p> <p>4 and I forget what exactly they were right now --</p> <p>5 I have listed here high grade corporates, some</p> <p>6 U.S. Treasury -- that were at the DTC, and I</p> <p>7 thought they were mortgage securities, but I</p> <p>8 just don't recall, plus some amount at Bank of</p> <p>9 New York that were in a separate clearing-type</p> <p>10 box.</p> <p>11 <b>Q. Does that refresh your recollection at</b></p> <p>12 <b>all whether that was what you meant by 1.9 in</b></p> <p>13 <b>the notes that we saw of the September 19</b></p> <p>14 <b>conversation?</b></p> <p>15 A. My guess is that that's -- it's a bit</p> <p>16 of a guess, so I apologize, but since we are at</p> <p>17 a deposition, I'll do something I would never do</p> <p>18 if I was advising a client. Those numbers are</p> <p>19 the same and they don't know up anywhere else,</p> <p>20 so I'm going to guess they were the same,</p> <p>21 meaning referring to the same thing.</p> <p>22 <b>Q. And then it says "plus 400 million</b></p> <p>23 <b>additional collateral." Do you know what that</b></p> <p>24 <b>refers to?</b></p> <p>25 A. I don't remember.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

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**Q. Then it says "45.4 value." Do you know what that refers to?**

A. I'm going to guess that's the 43.5 plus the 1.9 plus the 400.

**Q. When it says "value" there, is that the marked to market value of those securities as of that time?**

A. Well, it's a drop-down of the immediately above number that said "adjusted market value." So it should -- it should reflect that same adjustment since I'm just adding numbers.

**Q. So, to confirm, 45.4 is not the marked to market value of those securities as of September 21st, right?**

A. This is the discounted amount as opposed to the face marked amount. So, just so we're clear, what I've done in my recollection here in going through this is I've said that the face on this -- these securities is 42.9 plus 7 in cash. Somehow either I or someone else has said that's really only worth 43.5 adjusted if you tried to do something with it today. Add 1.9 billion, which doesn't have any adjustment,

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plus 400 additional, which doesn't seem to have any adjustment, and I have a 45.4 of liquidation value, if you will, today. And I don't know if it was my liquidation value, Barclays' argument, or something JPMorgan said. I just don't remember.

**Q. If we had to come up with a total of what the marked to market value was rather than the liquidation value based on this information, would you take the 49 billion that's listed on the left, add the 1.9 billion of the unencumbered, and then add the 400 million?**

A. I'd drop the cash and I would add -- I would take the 42.9, I would add the 1.9, and I would add the 400.

**Q. So let me say again. In order to get to the marked to market value of these securities that were being conveyed to Barclays as of September 21st, you would take 42.9 billion, 1.9 billion and 400 million; is that right?**

A. Correct.

**Q. And I'm going to have to do it --**

A. 45, 45.2.

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J. Seery

**Q. 45.2. And then if you were taking the entire value that -- let me confirm. So is it your understanding that the marked to market value of the securities that were being conveyed to Barclays as of September 21st was \$45.2 billion?**

A. The marked to market, meaning -- you mean marked value or liquidation value? We'll just use those terms because it'll be easier.

**Q. Meaning the marked value as they appeared on Lehman's books. Well, I'll even strike that.**

**Is it true that the marked value of the securities that were being conveyed to Barclays as of September 21st was \$45.2 billion?**

MR. STERN: Objection to the form.

A. These are just -- these are my notes of a conversation, you know, I'm either -- I don't think I'm just taking this off a sheet or I would have just used the sheet. I'm having a discussion with someone where someone else is conveying this information that the face amount of the securities that Barclays got at that time was 42.9. That's what they had.

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I don't believe they yet had DTC unencumbered because those would be at the DTC. They wouldn't have had BONY because those would be at BONY. So they were advanced -- this tells me they were advanced 45 against 43 of securities, which probably made them a little nervous. They thought they had 7 billion in cash sitting in an account at JP.

**Q. Let me just make sure. We did describe there was a \$45.2, and that's what you understood based on these notes --**

A. Correct.

**Q. -- if you wanted to find out the marked value of the securities that were going to be conveyed to Barclays as of September 21st?**

MR. STERN: Objection to the form.

A. Based on these notes, the way I would interpret it is that way, yes, 42.9 plus 1.9 plus 400.

**Q. In addition to that, it was your understanding that Barclays was going to receive \$7 billion in cash, correct?**

A. I think they already thought they had it.

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**Q. But the \$7 billion is not included in the 45.2 of the value of securities, the marked value we just went over, right?**

A. No, it is not, and that was part, that was a big part of the discussion that these notes were taken around because there was a fight about the 7 billion.

**Q. Okay. On the bottom we see a 47.4. Do you know what that number refers to?**

A. No. That adds another \$2 billion. I don't recollect why -- why that -- I just don't remember.

**Q. Okay. And the 45.5 that's under that, do you know what that's referring to?**

A. No, I don't.

**Q. Okay. Okay. Let's go back now to the page that's 66 that it would shed light on. Now that we have looked at that, do you remember what 44.6 on the left refers to?**

A. Let me just refer back to my other discussion, that those are, you know, the numbers are slightly different, so I just think they reflect the same categories and the same numbers. The ones on 67 look like the same

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numbers, but that -- strike that. They're very similar numbers, and it looks like there's a little more refinement to some of them on page 67.

**Q. So is this some estimate that's referring to the discounted liquidation value of the securities that Barclays is receiving?**

MR. STERN: Objection to the form.

A. I don't --

MR. STERN: What's the "this"? What "this"?

**Q. The 44.6 that's reflected on page 66.**

A. I don't -- I don't recall. I mean, if you -- here it's 45.4 with the extra 400. I just, I don't recall why those are different.

**Q. Okay. Let's look at near the bottom. It says, "Barclays will advance 45.5 billion plus 7.4 equals 52.9 billion advanced." First, did I read that right?**

A. Yes.

**Q. What does that refer to?**

A. Well, the 45.5 is the amount of cash advanced. I don't know what the 7.4 is.

Well, I do. Right above it. This is

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what it looks like JP must -- I just don't remember. JP must have been asking for that 7 -- we called it 7 billion on the other page, but 7.4 against the 8.55.

**Q. Okay.**

A. And 45 plus 8.55 is not 52.9. It's more like 53.1 that will be purchased. So this was -- this was a discussion really about how to -- part of this discussion was how would you resolve this whole issue of the securities being delivered, and if you add up the various blocks of securities, you would get a face value of 52 billion advanced versus a face value of 53.1 billion, assuming they took that Racers for 7.4 billion in cash.

**Q. So when it says under versus 53 -- maybe you better read it. What does it say under it?**

A. "53.1 billion of collateral that will be purchased."

**Q. Was this -- describe what that referred to.**

A. Remember, these are reflecting discussions. You've got JPMorgan in the room,

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you've got the Committee in the room, you've got Barclays in the room, and you've got Lehman in the room, and part -- part of this meeting is to resolve the dispute regarding what was being transferred in and whether we could actually close.

And my understanding was that the Committee had a, you know, we had to get a deal, if we were going to close this deal, we had to get a deal done that night and we had to get it done before the open. Barclays had advanced, you know, large sums of money, over \$45 billion, against a pool of collateral that they didn't think they got the right securities back for.

The Committee had a veto over whatever we came up with, meaning that if the Committee didn't like the deal, we weren't going to get -- we weren't going to get closed and we would just liquidate the company.

We sat down and these were negotiations, and it was pretty heated between JP and Barclays, and these -- my recollection now, and it's a little bit -- it's just coming back to me -- is that these are discussions

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1 J. Seery  
2 about how we could resolve it.  
3 I don't believe that this is how it  
4 was resolved, because in fact I know for certain  
5 that the issue with respect to the 7 billion,  
6 you know, went on for a long time after that and  
7 wasn't resolved between Barclays and JP until  
8 then. And I know for certain that the Racer  
9 securities stayed at JP until the recently  
10 agreed upon settlement where they're going back  
11 to the estate.

12 **Q. Okay. The very bottom of that note**  
13 **that's on page 66 I think says "no**  
14 **exchange-traded derivatives"; is that right?**

15 A. That's right.

16 **Q. And what does that refer to?**

17 A. That's just that those would not -- my  
18 recollection is that those weren't part of the  
19 deal; they weren't going to trade.

20 **Q. Now I want you to look at, going back**  
21 **to way at the beginning of these notes, let's**  
22 **start with page 2, and do you recognize these**  
23 **notes at page 2?**

24 A. I'm sorry, page 2 of?

25 **Q. Yes. I'm sorry. I'm going to -- it's**

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1 **J. Seery**  
2 **still in Exhibit 666, but now way at the**  
3 **beginning. Yes.**

4 A. They are notes from the inside of a  
5 manila folder.

6 **Q. Are they your notes?**

7 A. They are my notes.

8 **Q. When did you take them?**

9 A. I don't know.

10 **Q. Do you know if it was before or after**  
11 **the close?**

12 A. I'm relatively certain it's before the  
13 close.

14 **Q. Do you know if it was before or after**  
15 **the September 19th sale hearing?**

16 A. I don't know. I'm assuming it's  
17 after, but I don't know.

18 **Q. Could you walk me through reading what**  
19 **it says and your best memory of what that's**  
20 **reflected?**

21 A. "Balance 50.6 billion." Right next to  
22 it it says "financing 45.5," right next to it it  
23 says "Barclays value 43.3," and next to that  
24 says "close. Bridge of what BarCap is  
25 financing. What changed and why. Chris

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1 J. Seery  
2 O'Meara."

3 **Q. Okay. Let's start with that. What do**  
4 **you think is -- first of all, do you know where**  
5 **this information came from?**

6 A. I don't recollect where it came from.  
7 Certainly these are numbers that we've bandied  
8 about this morning and elsewhere, so ...

9 **Q. And do you know whether this is**  
10 **information as of before or after the sale**  
11 **hearing?**

12 A. I believe this is right around the  
13 time, so whether it actually occurred in the  
14 morning of the 19th, whether it occurred after  
15 the, you know, the morning of the 19th and the  
16 late night after the hearing was over, you know,  
17 well into the night, the 20th or the 21st, I  
18 don't exactly recall whether it was, you know,  
19 but it's in and around these times.

20 **Q. What does the 50.6 billion refer to?**

21 A. That was the -- that's the number we  
22 talked about before. This was the face value of  
23 the Fed facility, the -- what we called -- not  
24 face. It's the marked value of the Fed  
25 facility.

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1 J. Seery  
2 **Q. So does this reflect again the marked**  
3 **value of the securities that were part of the**  
4 **federal facility was \$50.6 billion?**

5 A. That's what I believe it is, yes.

6 **Q. And what does "financing 45.5" refer**  
7 **to?**

8 A. That would be the amount advanced  
9 against that facility.

10 **Q. Is it your understanding today that**  
11 **they financed 45.5?**

12 A. I don't have a specific understanding  
13 other than what I'm seeing in my notes.

14 **Q. And what's "Barclays' value 43.3"**  
15 **refer to?**

16 A. I believe that's what they thought the  
17 value of the securities was.

18 **Q. Do you know how you learned that?**

19 A. I don't. I would have gotten it from  
20 someone at Barclays. I'm sure it wasn't just  
21 made up.

22 **Q. Do you know at all how that was**  
23 **derived?**

24 A. No, I don't.

25 **Q. Do you have an opinion sitting here**

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**J. Seery**

**today whether that's an accurate value or not an accurate value?**

MR. STERN: Objection to the form.

A. I -- I don't have -- you know, our -- I know that our view of what the liquidation amount would be would be higher than that amount. So it's in the neighborhood, but that's -- that seems on the low side.

**Q. Do you know whether the Barclays value there reflected their understanding of the liquidation value if you sold all of the assets at once on that market in a relatively short time?**

A. I don't. My assumption is that that's what they would do because that's what anybody sitting in their seat would do.

**Q. You mean "would do" would calculate, or would actually do with the securities?**

A. Would calculate, because you're -- what I don't think most people ever understand is nobody goes long \$45 billion of securities in the whole in the market with no hedges. It's quite insane.

**Q. What do you mean by "nobody goes long**

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**J. Seery**

**45 billion of securities in the whole in the market"?**

A. No one else in the world showed up for this trade. The Fed, Federal Reserve of New York, operating, you know, as basically an arm of the Treasury at that point, was unwilling to hold these securities with that advance. It was a lot of money and security values were moving wildly.

So they went long. They bought this pool in a repo and they had a marked value of 50.6. These notes reflect, and I think that they were right, that they advanced about 45.5 against it, and they were nervous and thought they only had 43.3 of value.

Now, whether that was their negotiating value or that was their real liquidation value or something else, that is lower than we thought, but it's not crazy out of the realm of possibility.

**Q. Do you know if the actual -- if the securities that were pledged as part of the Fed portfolio had gone down in value that week, however you discuss it?**

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**J. Seery**

A. My recollection is that they did go down in value. Certain of them might have been flat to up. Short-dated treasuries I'm sure would have been flat to up a little bit, but I think that generally they went down.

**Q. Where did --**

A. We looked at it.

**Q. -- you receive that information from?**

A. You just asked me what I thought, and I didn't receive it from anywhere other than my knowledge of the market at the time.

**Q. Did you do any research to find out whether the securities that were part of the Fed repo had gone down in value?**

A. At that time? No, they were --

**Q. Yes.**

A. -- marked consistently, so I don't remember if they went, you know, specific securities went up or down. I know the whole pool went down. I don't know if that's because the market value went down or because they were liquidated.

**Q. What pool do you mean?**

A. We started the discussion earlier

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**J. Seery**

where, at the beginning of the week, the assets that were going to be traded to Barclays were a lot more than they were at the end of the week, and I don't think it was because treasuries dropped 40 percent. I think it's because a lot was liquidated, but there could be market value changes as well in that size reduction of the assets.

**Q. Did you ever tell anybody at the Committee that the value of the securities that were being transferred had gone down over time?**

A. I don't -- I don't recollect saying it exactly that way. We certainly talked about the value of the securities, the risk in the market and the reduction. Certain of the securities would have fallen, you know, significantly. They were down already. They would have gotten crushed during that week.

**Q. Do you remember if you told Committee members that certain of the securities had gone down in value?**

A. I don't remember the specific discussion. I would be surprised if I didn't, and they would have known that anyway.

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J. Seery

**Q. And you're taking that from kind of your general understanding of the marketplace?**

A. Yes.

**Q. Do you have any actual information about any specific security going from some position to another position over this time?**

A. Do I -- no, I don't have it at my fingertips, no, I don't have any of that.

**Q. Let's go back to your notes that are on page 2.**

**Who is Chris O'Meara?**

A. He was previously the CFO at Lehman, and at this time I don't recall if he was treasurer or what his exact title was.

**Q. Did you have a communication with him regarding this?**

A. I don't recollect. I talk to Chris relatively frequently.

**Q. Did you ever get any answer on the topic of the bridge of what BarCap is financing, what changed, and why?**

A. Providing a bridge, no, I don't recall getting one.

**Q. And on the left under "50.6 billion,"**

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J. Seery

**I think it says "excluded assets 50 percent 2 to 5M" something. Do you know what that refers to?**

A. I don't. I just -- I'm assuming that's something in the contract is an excluded asset. It says 2 to 5 and I don't know if that's million or just an M. It's an M with something else after it. I can't tell.

**Q. Do you know what the numbers are -- can you read what's under that?**

A. It says "4.8 billion marks. 3.5 on longs. 1.3 on shorts."

**Q. Do you know what that refers to?**

A. I don't. I'm -- I'm assuming -- I can make an assumption that it shows a mark to the portfolio that would reduce the marked value, and I don't know if that was -- comes out of the 50.6 or if it -- or if it was before we got to the 50.6.

**Q. Let's go to page 3, and let's take a look at your original for this. So I'm -- so I'm just showing you the original of what we have as JS-LB-BANKR3.**

**Can you read the first three lines and then tell me what that represents?**

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J. Seery

A. It says, "Sell long and short book." Then it's -- the crossed out section is dash -- if I had -- I would be guessing right now. I would have to really spend some time to figure out what that says. There's a section that's crossed out, and then there's a dash "45.5 long, subject to 45.5 repo, no shorts."

**Q. Do you know when -- are these your notes?**

A. These are definitely. That's my handwriting.

**Q. Do you know when you took them?**

A. I don't.

**Q. Do you know who was giving you this information?**

A. No, I don't recall.

**Q. Do you know if this is after the time that you had Lehman traders do an estimation of the liquidation haircut value?**

A. I don't know.

**Q. And do you know what -- if the 45.5 long that's discussed here is referring to that liquidation discount value that comes out of that information from Lehman traders?**

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J. Seery

A. I don't know. It's darn close to the numbers reflected on these other notes, but I just don't know.

**Q. I want to skip ahead to -- it's now kind of at the end of this packet that's still Exhibit 666, and I want to go to the numbers that end in 68.**

**Who's Steven Cohen?**

A. I don't know. It says Alvarez & Marsal. I don't know. It must have met him.

**Q. Are these your notes?**

A. They are.

**Q. Do you know when you took them?**

A. It was in the same time period. If you give me the original, I'll tell you when it was.

(Document handed.)

A. Should be in order. I believe these were -- I believe these were before the meeting on the 21st. I don't know if they were that day or they were -- or they were, you know, a day or two before, but they were before -- at least before everybody showed up in that big meeting.

**Q. Under it it says, "Where is the**

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<p>1 <b>J. Seery</b></p> <p>2 <b>schedule?" Do you know what that refers to?</b></p> <p>3 A. I just know what it says, which is I'm</p> <p>4 trying to find out where the schedule is. I'm</p> <p>5 taking notes for myself, I assume.</p> <p>6 <b>Q. Do you know if you gave a schedule to</b></p> <p>7 <b>Mr. Cohen?</b></p> <p>8 A. To whom?</p> <p>9 <b>Q. I think Steven Cohen?</b></p> <p>10 A. Oh, I just don't recollect Steven</p> <p>11 Cohen. Probably a very nice guy, but ...</p> <p>12 <b>Q. Now that we have a larger exhibit, I</b></p> <p>13 <b>want to return to a question that I had earlier.</b></p> <p>14 <b>So let me -- I'm going to give you what is the</b></p> <p>15 <b>full amount of 461B, and that includes the</b></p> <p>16 <b>summary that you have seen and then is a large</b></p> <p>17 <b>schedule, and my question is whether you</b></p> <p>18 <b>recognize the attachment?</b></p> <p>19 A. What's the redaction?</p> <p>20 <b>Q. It's an attorney-client communication</b></p> <p>21 <b>between -- I don't have it in front of me, but</b></p> <p>22 <b>probably Milbank and --</b></p> <p>23 A. It's Milbank to Fazio. It's just</p> <p>24 awfully hard to figure stuff out when it's</p> <p>25 redacted.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 This looks like our typical run of</p> <p>3 assets.</p> <p>4 <b>Q. Do you remember discussing this</b></p> <p>5 <b>particular exhibit at all with anybody on --</b></p> <p>6 <b>before the closing?</b></p> <p>7 A. The answer is no, and there's a very</p> <p>8 good reason for that is that when you get a lot</p> <p>9 of these all the time, they look the same.</p> <p>10 <b>Q. Do you know whether the numbers in</b></p> <p>11 <b>that schedule reflect Lehman's marks as of</b></p> <p>12 <b>September 19th?</b></p> <p>13 A. I really don't know, and -- and, you</p> <p>14 know, to be not defensive, but maybe slightly</p> <p>15 fair, there's got to be 20,000 line items in</p> <p>16 here. I don't know, I have no idea whether</p> <p>17 these are good numbers or not.</p> <p>18 <b>Q. Do you remember discussing anything</b></p> <p>19 <b>about that exhibit with anybody at the</b></p> <p>20 <b>Committee?</b></p> <p>21 A. I don't recall this specific exhibit</p> <p>22 or whether this was one that we used during</p> <p>23 those discussions.</p> <p>24 <b>Q. Do you remember if you had, at any</b></p> <p>25 <b>time before the closing, an accurate list of the</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 <b>J. Seery</b></p> <p>2 <b>securities that were going to be transferred to</b></p> <p>3 <b>Barclays?</b></p> <p>4 A. I certainly had lists that were</p> <p>5 produced to me by Lehman personnel. I never</p> <p>6 went through in any detail the line items in any</p> <p>7 of those lists.</p> <p>8 <b>Q. And did you know if you had a list</b></p> <p>9 <b>that included the marked value as of September</b></p> <p>10 <b>21 of all the securities that were going to</b></p> <p>11 <b>Barclays?</b></p> <p>12 A. I believe I did. I don't recollect it</p> <p>13 specifically and I would not have gone through</p> <p>14 the list. I would have taken the summary of the</p> <p>15 values.</p> <p>16 <b>Q. And do you know -- there is a summary</b></p> <p>17 <b>of the values. I think it's probably the same</b></p> <p>18 <b>that you have seen before, but I'm just going to</b></p> <p>19 <b>ask again. Do you know one way or another</b></p> <p>20 <b>whether that number that's listed as the total</b></p> <p>21 <b>is the correct up-to-date value on Lehman's</b></p> <p>22 <b>books of the marked to market value of the</b></p> <p>23 <b>securities being transferred to Barclays?</b></p> <p>24 A. And my eyes aren't as good as they</p> <p>25 used to be, but that 49 billion and change --</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 <b>Q. Yes.</b></p> <p>3 A. -- I don't know whether that is a good</p> <p>4 market value, a dated market value. I just have</p> <p>5 no way of knowing.</p> <p>6 <b>Q. Okay. You were at the hearing on</b></p> <p>7 <b>September 19th, right?</b></p> <p>8 A. Yes, I was.</p> <p>9 <b>Q. I just have a question about one part,</b></p> <p>10 <b>and I'm going to show you part of the transcript</b></p> <p>11 <b>just --</b></p> <p>12 A. If you want to just, since we're --</p> <p>13 I've got to do some work today, but I want to</p> <p>14 just check one thing.</p> <p>15 MR. STERN: Does this relate to the</p> <p>16 declaration or any of the documents that Mr.</p> <p>17 Seery produced?</p> <p>18 MS. TAGGART: It relates to the</p> <p>19 declaration, the information, and the new</p> <p>20 refreshed recollection that came out today.</p> <p>21 A. These are -- these are very close to</p> <p>22 the numbers that I just read to you. Right?</p> <p>23 So, you know, those are -- those are numbers</p> <p>24 that reflect, I believe, from my notes before,</p> <p>25 which had a lot of detail on them, Lehman's</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

1 J. Seery  
2 marked value. Right? That's what I believe  
3 they are.  
4 **Q. Do you know whether you knew at the**  
5 **time whether that --**  
6 A. I have --  
7 **Q. Hold on.**  
8 **-- whether that schedule reflected the**  
9 **current and accurate Lehman marks of the**  
10 **securities that were going to be transferred to**  
11 **Barclays?**  
12 A. My -- my belief is that you just  
13 showed me, you know, an inch and a quarter,  
14 two-inch piece of -- stack of paper. We had  
15 gone through in some detail on 067 what my notes  
16 from the time reflect and what I believe those  
17 notes today and my memory to be, and those  
18 numbers are almost spot-on to the numbers that  
19 you gave me from the -- purport to be a summary  
20 of the two-inch stack of paper.  
21 So I think these are Lehman's marked  
22 value from that day, but do I know whether it's  
23 accurate? No. Do I know who Anne Kamensky is  
24 or Brian Kelly? No, they're not people who I  
25 ever dealt with nor had any relationship to  
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1 **J. Seery**  
2 **notes that are at the bottom, read them, and**  
3 **then, to the best of your recollection, say what**  
4 **you believe they represent?**  
5 A. It says "43.3 billion for 50.6  
6 billion," and that's in a box. Then it says "5  
7 billion," dash, "50 percent." "1 billion Pine."  
8 "300 Golden Gate." "2 and a half billion  
9 non-agency mortgages," with a sub arrow under it  
10 that says "1.25 was supposed to be" -- it  
11 doesn't say. "1 billion CDO/CDS." "1 billion  
12 ABS other."  
13 And then on the other side, there's a  
14 little brackets or a little graph columns, says,  
15 "45 billion OTH. 4.8 billion mark."  
16 **Q. Do you know when you wrote these**  
17 **notes?**  
18 A. I don't.  
19 **Q. Do you know where this information**  
20 **came from?**  
21 A. I don't recollect now, but these  
22 numbers are similar to what we talked about  
23 before.  
24 **Q. Do you know what "43.3 billion for**  
25 **50.6 billion" refers to?**  
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1 J. Seery  
2 Lehman Brothers other than as attorneys.  
3 MR. STERN: Before we get to the next  
4 document, can we take a quick break?  
5 MS. TAGGART: Yes.  
6 THE VIDEOGRAPHER: This concludes tape  
7 number 2 in the videotaped deposition of  
8 James Seery. The time is 11:38. We are now  
9 off the record.  
10 (Recess.)  
11 THE VIDEOGRAPHER: This begins tape  
12 number 3 of the videotaped deposition of  
13 James Seery. The time is 11:43 A.M. We're  
14 now on the record.  
15 BY MS. TAGGART:  
16 **Q. I'd like you to look back at your**  
17 **notes, so that's Exhibit 666, and in particular,**  
18 **the page that ends in JS-LB-BANKR45. It looks**  
19 **like this -- and it's probably worth us finding**  
20 **the originals, which we can try to help you**  
21 **with.**  
22 MR. STERN: I'll look. This is  
23 Spruce.  
24 A. 45, you said?  
25 **Q. Yes. Could you walk through your**  
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1 **J. Seery**  
2 A. I don't recollect right now.  
3 **Q. And do you know what "5 billion, 50**  
4 **percent" refers to?**  
5 A. I don't. It looks like those numbers  
6 below it somehow add up to 5 billion. I don't  
7 know what the 50 percent recollection is.  
8 **Q. And what about the "50 billion other**  
9 **for the 8 billion"?**  
10 A. You mean "45 billion, other 4.8  
11 billion."  
12 **Q. Yes. I'm sorry.**  
13 A. "Mark."  
14 Yes, I don't recollect what that is.  
15 MS. TAGGART: Let's mark as the next  
16 Exhibit 668 excerpts from the transcript of  
17 the September 19 hearing.  
18 (Exhibit 668, excerpts from the  
19 transcript of the September 19 hearing,  
20 marked for identification, as of this date.)  
21 A. Okay.  
22 **Q. I want to draw your attention to page**  
23 **109, starting at line 19, and this is an excerpt**  
24 **from Bart McDade's testimony.**  
25 A. I'm sorry, 109?  
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<p>1 J. Seery</p> <p>2 <b>Q. Yes.</b></p> <p>3 A. Okay.</p> <p>4 <b>Q. And I'm just going to read out loud a</b></p> <p>5 <b>few sentences. Starting on page 109, line 19,</b></p> <p>6 <b>there's a question to Bart McDade:</b></p> <p>7 <b>"Q Does Lehman have any valuations,</b></p> <p>8 <b>internal valuations of any of the assets that</b></p> <p>9 <b>are being transferred to Barclays?</b></p> <p>10 <b>"A Absolutely. There are many complex</b></p> <p>11 <b>securities involved, many different models that</b></p> <p>12 <b>we use to evaluate those securities.</b></p> <p>13 <b>"Q And so, sir, is it your testimony</b></p> <p>14 <b>then that a valuation was conducted within</b></p> <p>15 <b>Lehman of all of the assets that are being</b></p> <p>16 <b>transferred to Barclays? When was that</b></p> <p>17 <b>conducted?</b></p> <p>18 <b>"A Portfolio moved during the week, but</b></p> <p>19 <b>that was conducted all last evening. All</b></p> <p>20 <b>through and up to the arrangement, the</b></p> <p>21 <b>agreement today."</b></p> <p>22 <b>Do you know what valuation Mr. McDade</b></p> <p>23 <b>is referring to?</b></p> <p>24 A. I don't know specifically what he's</p> <p>25 referring to, no.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 J. Seery</p> <p>2 <b>Q. Generally?</b></p> <p>3 A. That Lehman continued to value its</p> <p>4 securities using models or market and did that</p> <p>5 all the way up through the closing, or up to the</p> <p>6 hearing.</p> <p>7 <b>Q. Okay. That's all my questions. Oh,</b></p> <p>8 <b>hold on.</b></p> <p>9 <b>Oh, I'm sorry, I do have another. Go</b></p> <p>10 <b>to page 126 of this same one. This is also part</b></p> <p>11 <b>of Bart McDade's testimony, and I'm starting at</b></p> <p>12 <b>page 126, line 21:</b></p> <p>13 <b>"Q Did you do an audit of the -- I'm</b></p> <p>14 <b>sorry, has an audit been accomplished of the</b></p> <p>15 <b>securities that are to be transferred to</b></p> <p>16 <b>Barclays under the proposed transactions?</b></p> <p>17 <b>"A If you mean an audit by external</b></p> <p>18 <b>valuation process?</b></p> <p>19 <b>"Q By identification of the securities.</b></p> <p>20 <b>"A Absolutely. Line-by-line."</b></p> <p>21 <b>Do you know what "this audit," what</b></p> <p>22 <b>he's referring to?</b></p> <p>23 A. I think -- I don't -- I mean, I don't</p> <p>24 know what Bart's saying here other than we have</p> <p>25 a line-by-line identification of the securities.</p> <p>TSG Reporting - Worldwide 877-702-9580</p>
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<p>1 J. Seery</p> <p>2 <b>Q. Have you seen a document before</b></p> <p>3 <b>September -- before this hearing that was a</b></p> <p>4 <b>line-by-line identification of the securities?</b></p> <p>5 A. Sure.</p> <p>6 <b>Q. Did you see one that had an external</b></p> <p>7 <b>valuation process?</b></p> <p>8 A. No. I don't think he's testifying to</p> <p>9 that, but you guys can read into it whatever you</p> <p>10 like.</p> <p>11 <b>Q. What did you see that you believe is</b></p> <p>12 <b>an identification line-by-line of the</b></p> <p>13 <b>securities?</b></p> <p>14 A. For example, you just showed me one.</p> <p>15 <b>Q. So you saw spreadsheets like the one</b></p> <p>16 <b>that was 461B that's here, you had seen things</b></p> <p>17 <b>like that?</b></p> <p>18 A. Yes, those are -- those are, you know,</p> <p>19 just to be clear, they're not -- spreadsheets is</p> <p>20 one thing. It's sort of an Excel-made</p> <p>21 spreadsheet. These are derived from a</p> <p>22 particularized systems that monitor the</p> <p>23 securities.</p> <p>24 <b>Q. Do you know of any external valuation</b></p> <p>25 <b>process that Mr. McDade might be referring to?</b></p> <p>TSG Reporting - Worldwide 877-702-9580</p>	<p>1 <b>J. Seery</b></p> <p>2 A. I don't think he's referring to an</p> <p>3 external valuation process.</p> <p>4 <b>Q. What was your understanding when you</b></p> <p>5 <b>were there listening about what he was referring</b></p> <p>6 <b>to in his testimony?</b></p> <p>7 A. I think he's telling -- he's saying</p> <p>8 that we valued them line-by-line every day. And</p> <p>9 he asked the question, you mean an external</p> <p>10 audit? And they say, whoever is the questioner</p> <p>11 says "by identification of the securities."</p> <p>12 Sure, we have line-by-line.</p> <p>13 <b>Q. And you think he's referring to the</b></p> <p>14 <b>line-by-line, the marked to market valuations</b></p> <p>15 <b>that Lehman does for securities every day?</b></p> <p>16 MR. STERN: Objection to the form.</p> <p>17 A. I'm not in Bart's head, but that's</p> <p>18 what he seems to be saying to me.</p> <p>19 MS. TAGGART: Okay. I'm done. I'm</p> <p>20 going to turn it over to Mr. Mills.</p> <p>21 MR. STERN: Carl, you think you have</p> <p>22 about 20 minutes?</p> <p>23 MR. MILLS: Or less.</p> <p>24 MR. STERN: Okay.</p> <p>25 EXAMINATION BY</p> <p>TSG Reporting - Worldwide 877-702-9580</p>

1 J. Seery  
2 MR. MILLS:  
3 **Q. Good morning, Mr. Seery. My name is**  
4 **Carl Mills. I'm from Hughes, Hubbard & Reed,**  
5 **and as I said, we represent the SIPA Trustee,**  
6 **James W. Giddens, and I just have a couple of**  
7 **questions for you.**  
8 **I'd like to turn first to Exhibit 665**  
9 **of your declaration, and specifically paragraph**  
10 **6.**  
11 A. Yes.  
12 **Q. It begins, "I understand that a**  
13 **Committee representative testified that he**  
14 **crossed out the notes reflecting the original**  
15 **information describing the repo because I told**  
16 **him the information and structure of the repo**  
17 **portion of the sale transaction had changed."**  
18 **Did I read that correctly?**  
19 A. I'm not going to critique your  
20 reading. If those are the words, those are the  
21 words. I didn't read along with you, so...  
22 **Q. The question is, in addition to the**  
23 **repo portion of the sale transaction, as of**  
24 **Friday, September 19, what other portions of the**  
25 **sale transaction did you understand existed?**  
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1 J. Seery  
2 A. That hadn't changed, to my knowledge.  
3 **Q. And had it originally, the sale**  
4 **transaction, included exchange-traded**  
5 **derivatives being transferred to Barclays?**  
6 A. My recollection is it was originally  
7 in the deal, and I don't know whether it  
8 actually transferred or not.  
9 **Q. Turning to Exhibit 666, and**  
10 **specifically page 000066.**  
11 A. You want me to look at 66 of 666?  
12 **Q. 66 of 666.**  
13 A. Okay.  
14 **Q. There's a notation towards the bottom**  
15 **that appears to say "no exchange-traded**  
16 **derivatives"?**  
17 A. "Are part of this calculation," that's  
18 correct.  
19 **Q. Okay. So that's not referring to**  
20 **whether exchange-traded derivatives were**  
21 **included in the deal generally?**  
22 A. Not to my recollection. I don't have  
23 a good -- I honestly don't have a good  
24 recollection of the exchange-traded derivatives  
25 and how much they were, how much -- how much  
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1 J. Seery  
2 MR. STERN: Objection to the form.  
3 A. What other portions of the sale  
4 transaction that I understand existed?  
5 **Q. Right. You referred to --**  
6 A. A lot. A lot existed.  
7 **Q. Any other major portions?**  
8 MR. STERN: Objection to the form.  
9 A. There were major portions, yes. Lots  
10 existed.  
11 **Q. Can you describe them?**  
12 A. I've spent two days --  
13 MR. STERN: Objection.  
14 A. -- doing that. I mean, there's a  
15 whole big giant transaction that we talked  
16 about. That's what we're litigating about.  
17 **Q. Did the sale transaction, as you**  
18 **understood it, on Friday, September 19, include**  
19 **the transfer of exchange-traded derivatives to**  
20 **Barclays?**  
21 A. The repo never included  
22 exchange-traded derivatives because they're  
23 exchange-traded items that weren't repos.  
24 **Q. And outside the repo portion of the**  
25 **sale transaction?**  
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1 J. Seery  
2 they were involved. I know they weren't part of  
3 the repo.  
4 **Q. Do you recall discussing**  
5 **exchange-traded derivatives with anyone on**  
6 **Sunday, September 21st?**  
7 A. Not in any detail, no.  
8 **Q. Do you recall discussing whether**  
9 **margin held to secure exchange-traded**  
10 **derivatives was included in the sale**  
11 **transaction?**  
12 A. Not at all.  
13 **Q. Going back to Friday, September --**  
14 MR. STERN: "Not at all," you don't  
15 recall?  
16 THE WITNESS: I don't recall having  
17 any discussions, you know, regarding that.  
18 MR. STERN: Okay. I think this is  
19 going beyond the scope of his declaration  
20 and his notes, but continue. We'll see how  
21 it goes.  
22 **Q. Going back to Friday, September 19,**  
23 **and other portions of the sale transaction, was**  
24 **it your understanding that the sale transaction**  
25 **included the transfer to Barclays of assets held**  
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1 J. Seery  
2 by LBI pursuant to Rule 15c3?

3 A. My --

4 MR. STERN: Objection to the form.

5 A. My recollection is that we included  
6 those assets and but I don't recall whether they  
7 were actually transferable, and my recollection,  
8 which is a little vague, is that we included  
9 them to the extent that they could be  
10 transferred without representing whether they  
11 could or could not be transferred.

12 Q. When you say that "we included them,"  
13 what do you mean?

14 A. Lehman Brothers.

15 Q. And was that reflected in any writing  
16 as of Friday, September 19th?

17 A. I don't recollect. What I do -- my  
18 recollection is that they were among the  
19 additional assets that we tried to include from  
20 the Friday morning discussions where Barclays  
21 was concerned about the collateral they were  
22 receiving versus the amount they advanced, and I  
23 think there was a discussion, and I am not a  
24 15c3 -- I'm not even barely knowledgeable, but I  
25 don't know if we had any view, clear view, as to

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1 J. Seery

2 whether those were transferable or not.

3 Q. And any assets that LBI held pursuant  
4 to Rule 15c3 that were going to be transferred  
5 to Barclays would be in addition to the repo  
6 collateral that Barclays was receiving?

7 A. That's correct. That's right.

8 Q. And would the same be true of  
9 exchange-traded derivatives, would those be in  
10 addition to repo collateral?

11 A. I didn't have a discussion about  
12 those. They were separate from the repo, for  
13 sure.

14 Q. At any time prior to the sale hearing  
15 on Friday, September 19th, did you have any  
16 discussion with any representatives of the  
17 trustee?

18 A. Which? Giddens?

19 Q. Correct.

20 A. I talked to James Giddens.

21 Q. On Friday, September 19th?

22 A. Yes.

23 Q. And what did you discuss with Mr.  
24 Giddens?

25 A. Just generally, very quickly the case,  
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1 J. Seery  
2 what we were doing, how we were moving forward,  
3 what needed to get done, appreciated his help  
4 and told him we were wide open to give him any  
5 information he wanted either that day or over  
6 the weekend or going forward.

7 Q. Did you explain to him the terms of  
8 the sale transaction?

9 A. I don't know if -- I don't recollect  
10 if I did or if he already knew them and had  
11 gotten a summary.

12 Q. Did you speak with anyone else  
13 representing the trustee on the 19th?

14 A. Some of your partners at Hughes  
15 Hubbard. I don't recall who.

16 Q. Did you speak to anyone representing  
17 the trustee at the sale hearing on Friday,  
18 September 19th?

19 A. I would be surprised if I didn't at  
20 least say hello. I don't recollect it because  
21 Giddens wasn't by himself.

22 Q. Did you discuss any of the terms of  
23 the sale transaction during the sale hearing on  
24 Friday, September 19th?

25 A. No.

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1 J. Seery

2 With?

3 Q. With any representatives of the  
4 trustee.

5 A. In a direct conversation, not that I  
6 recollect.

7 Q. Do you recall that representatives of  
8 the trustee were at Weil Gotshal on Sunday,  
9 September 21st?

10 A. I don't remember them being there, no.

11 Q. Do you recall -- you don't remember  
12 them being there?

13 A. No. I don't remember them not being  
14 there either.

15 Q. So you don't recall having any  
16 discussions with any representatives of the  
17 trustee on Sunday, September 21st?

18 A. No, I don't.

19 Q. Do you recall as of Friday, September  
20 19, prior to the sale hearing, whether you  
21 understood that cash would be transferred to  
22 Barclays as part of the sale transaction?

23 MR. STERN: Objection to the form.

24 A. I don't -- I don't recollect any  
25 discussions about cash other than the 7 billion  
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J. Seery  
cash that was in dispute between Barclays and  
JP.

**Q. Turning back to Exhibit 665, your declaration, and the notes attached thereto?**

A. Yes.

Q. Specifically, the page that's Bates-numbered HLHZ0038190.

MR. STERN: These are the Burian notes?

A. Yes.

**Q. Do you recall discussing during your call with the Committee whether cash would be transferred to Barclays as part of the sale transaction?**

MR. STERN: Objection to the form.

A. I don't specifically recall, but the notes certainly reflect it. I just don't remember a discussion of cash.

**Q. When you say "the notes certainly reflect it"?**

A. Sal's notes of our conversation -- I'm taking his notes, which is a little bit of a guess, that this is a summary of our conversation, and so he shows the changes and

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J. Seery  
A. I just don't, I don't -- I can't say it changed or didn't change because I don't recollect having a discussion of cash. It's usually a pretty straightforward part of a sale transaction so it requires no discussion. It's either included or it's not, and I've never seen cash sold at a discount.

MR. MILLS: I have nothing further.  
Thank you.

MR. STERN: Okay.

THE WITNESS: Thanks.

THE VIDEOGRAPHER: This concludes tape number 3 of the videotaped deposition of James Seery. The time is 12:02 P.M. We're now off the record.

000

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JAMES SEERY

Subscribed and sworn to  
before me this     day  
of     2010.

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J. Seery  
says no cash. So I -- I don't -- I don't  
recollect discussing cash as part of this  
transaction at all.

**Q. With the Committee?**

A. With anybody.

**Q. Do you recall whether your understanding with respect to whether cash was included in the sale transaction changed at any time prior to the closing?**

MR. STERN: Objection to the form.

(Continued on the next page to include the jurat.)

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J. Seery  
CERTIFICATE  
STATE OF NEW YORK )  
: ss

COUNTY OF NEW YORK)

I, Kathy S. Klepfer, a Registered  
Merit Reporter and Notary Public within and  
for the State of New York, do hereby  
certify:

That JAMES SEERY, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

I further certify that neither the deponent nor a party requested a review of the transcript pursuant to Federal Rule of Civil Procedure 30(e) before the deposition was completed.

In witness whereof, I have hereunto  
set my hand this 3rd day of March, 2010.

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2 NAME OF CASE: In re: Lehman Brothers Holdings  
3 DATE OF DEPOSITION: March 3, 2010  
4 NAME OF WITNESS: James Seery  
5 Reason Codes:  
6 1. To clarify the record.  
7 2. To conform to the facts.  
8 3. To correct transcription errors.  
9 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
10 From \_\_\_\_\_ to \_\_\_\_\_  
11 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
12 From \_\_\_\_\_ to \_\_\_\_\_  
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23 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
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